98TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 98-25
Part 1

SOCIAL SECURITY ACT AMENDMENTS OF 1983

REPORT

OF THE

COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 1900

together with

ADDITIONAL AND DISSENTING VIEWS

MARCH 4, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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MARCH 4, 1983.—Ordered to be printed

MR. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 1900]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means to whom was referred the bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE AND SCOPE

The Social Security Act Amendments of 1983 include amendments to the social security, medicare, supplemental security income and unemployment compensation programs. The primary focus of your Committee's bill is on restoring the financial soundness of the old age and survivors' insurance (OASI) program, which is facing severe cash shortfalls over the next 7 years. The Congress took major steps in 1977 to address the financing crisis facing the social security system at that time, and to reduce the long-term deficit projected for the next century. However, the performance of the economy during the period since 1977 has resulted in an even more severe short-term financing shortfall for the OASI program than existed in 1977. The reserves of the OASI Trust Fund were exhausted at the end of 1982, which necessitated borrowing $17.5 billion from the DI and HI funds to assure timely OASI benefit payments through June 1983. Your Committee's bill resolves that short-term problem.

In addition, your Committee has been deeply concerned about the serious decline in public confidence in the social security system. This lack of confidence is particularly apparent on the part

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of young workers, many of whom apparently are convinced that because the system is projected to have a long-term financing deficit, social security benefits will not be available when they retire after the turn of the century. The 1977 Social Security Amendments reduced the long-term deficit then projected of over 8 percent of taxable payroll to 1.4 percent of payroll. This deficit has increased somewhat since 1977 to 2.09 percent of payroll, primarily because of changes in actuarial assumptions about long-range fertility rates, which affect the numbers of both workers contributing to and beneficiaries receiving benefits from the system, and real wage growth, which affects income to the system and increases in benefits to be paid out.

In your Committee's view the long-term deficit is a problem which must be addressed in order to restore public confidence in the social security system. Therefore, the combination of revenue increases and benefit modifications contained in the bill both assures the trust funds against short-term cash shortfalls, and eliminates the currently projected long-term deficit.

The bill also provides for changes in several other Social Security Act programs. In Title IV of the bill your Committee has provided an increase in supplemental security income payments to compensate for delay of the social security cost-of-living increase from July 1983 to January 1984, as well as other minor improvements in SSI protection. Title V of the bill extends the Federal Supplemental Compensation program through September 1983, with some modifications in the current FSC program, and in addition contains certain other unemployment compensation amendments. Title VI provides for the implementation of a prospective payments system for medicare inpatient hospital services.

II. SUMMARY OF PRINCIPAL PROVISIONS

Consistent with the policy of your Committee and the Congress to maintain the social security program on a sound financial basis, your Committee's bill makes provision for assuring both the short- and long-term financial stability of the program. To accomplish this purpose, your Committee's bill includes provisions that would expand coverage to several groups of workers previously excluded from participation in the program, provide mechanisms to assure the continued timely payment of social security benefits even under adverse economic circumstances, increase revenues to the trust funds, improve benefits for certain surviving, disabled and divorced spouses and make revisions in the benefit computation methodology for certain groups of beneficiaries.

In addition, your Committee's bill includes provisions relating to supplementary security income benefits, extension of the Federal Supplemental Compensation (FSC) program, and the implementation of a prospective reimbursement system for medicare inpatient hospital services. A summary of the provisions of your Committee's bill follows.

TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

A. COVERAGE

1. FEDERAL EMPLOYEES

Provides for coverage under social security of the following groups: (1) all Federal employees hired on or after January 1, 1984, including those with previous periods of Federal service; (2) legislative branch employees on the same basis, as well as all current employees of the legislative branch who are not participating in the Civil Service Retirement System as of December 31, 1983; (3) all current and future Members of Congress, the President and the Vice-President effective January 1, 1984; (4) all new employees of the judicial branch, including judges, on or after January 1, 1984; (5) all sitting Federal judges, and all executive level and senior executive service political appointees, as of January 1, 1984.

2. EMPLOYEES OF NONPROFIT ORGANIZAITONS

Extends social security coverage on a mandatory basis to all employees of nonprofit organizations as of January 1, 1984. (A special insured status requirement would be provided for nonprofit employees age 55 or older affected by this provision.)

3. PROHIBIT TERMINATION BY STATE AND LOCAL GOVERNMENTS

Prohibits State and local governments from terminating coverage for their employees if the termination has not taken effect by the date legislation is enacted, and allows State and local governments which have withdrawn from the social security system to voluntarily rejoin.

B. COMPUTATION OF BENEFITS

1. DELAY COST-OF-LIVING ADJUSTMENT

Delays the June 1983 cost-of-living adjustment until December (January 1984 check), and provides all subsequent cost-of-living adjustments in December (January checks). A cost-of-living adjustment would be provided in the January 1984 payment even if the increase in the CPI is less than 3 percent.

2. STABILIZER

Provides that beginning with 1988, if the fund ratio of the combined OASDI Trust Funds as of the beginning of a year is less than 20 percent, the automatic cost-of-living adjustment (COLA) of OASDI benefits would be based on the lower of the CPI increase or the increase in average wages. A "catch up" benefit payment would be made in a subsequent year whenever trust fund reserves reach at least 32 percent.

3. WINDFALL BENEFITS

Modifies the social security benefit formula (substituting 61 percent for the 90 percent in the first bracket of the formula) so as to reduce social security benefits received by workers who are eligible for a pension from noncovered work but who have worked long enough in covered employment to be eligible for social security benefits. This formula would apply only to those reaching age 60 after 1983.

4. DELAYED RETIREMENT CREDIT

Gradually increases the delayed retirement credit from 3 percent to 8 percent per year between 1990 and 2008.

C. REVENUE PROVISIONS

1. TAXATION OF SOCIAL SECURITY (OASDI) BENEFITS FOR HIGHER-INCOME PERSONS

Includes in taxable income, beginning in 1984, a portion of social security benefits and Tier One benefits payable under the Railroad Retirement Act for taxpayers whose adjusted gross income combined with 50 percent of their benefits exceeds a base amount. The base amount would be $25,000 for an individual, $32,000 for a married couple filing a joint return and zero for married persons filing separate returns. The amount of benefits that could be included in taxable income would be the *lesser* of one-half of benefits or one-half of the excess of the taxpayers' combined income (adjusted gross income plus one-half of benefits) over the base amount.

The proceeds from the taxation of benefits, as estimated by the Treasury Department, would be transferred to the appropriate trust funds.

2. FICA TAX RATES (OASDI)

Advances the payroll tax increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988, as indicated below. (Conforming changes would be made in the Tier One Railroad Retirement Tax rates.)

EMPLOYER-EMPOYEE OASDI TAX RATE (each)

	Current law	Proposed
1984	5.40	5.70
1985	5.70	5.70
1986	5.70	5.70
1987	5.70	5.70
1988	5.70	6.06
1989	5.70	6.06
1990	6.20	6.20

3. TAX CREDIT FOR 1984 FICA TAXES

Provides for a one time credit of 0.3 percent of wages to be allowed against 1984 employee FICA and Tier One Railroad Retirement taxes. Appropriations to the trust funds would be based on a 5.7 percent rate. Conforming changes would be made in Tier One Railroad Retirement Tax rates.

4. TAX ON SELF-EMPLOYMENT INCOME

Beginning in 1984, the OASDHI rates for self-employed persons would be equal to the combined employer-employee OASDHI rate. In addition, self-employed persons would be allowed a SECA tax credit of 2.1 percent of net self-employment income in 1984, 1.8 percent from 1985 through 1987 and 1.9 percent thereafter.

D. Benefits for Certain Surviving, Divorced and Disabled Spouses

Includes provisions to continue benefits for a surviving divorced or disabled spouse who remarries, to increase benefits for disabled widows and widowers and for widows whose husbands died several years before the widow is eligible for benefits, and to allow divorced spouses to draw spouses' benefits at age 62 whether or not the former spouse has retired.

E. MECHANISMS TO ASSURE CONTINUED BENEFIT PAYMENTS IN ADVERSE CONDITIONS

1. INTERFUND BORROWING

Authorizes interfund borrowing between the OASI, DI and HI trust funds for calendar years 1983–1987, with provision for repayment of the principal and interest of all such loans (including amounts borrowed in 1982) at the earliest feasible time but not later than the end of calendar year 1989.

2. FIXED MONTHLY TAX TRANSFERS

Provides for an acceleration of the tax transfer mechanism under which the Treasury would credit to the OASDHI Trust Funds, at the beginning of each month, the amount of payroll tax revenues that is estimated to be received during the month. These amounts would be invested by the trust funds as all other assets are invested, and the trust fund would pay interest to the general fund on these amounts.

3. MANAGING TRUSTEE REPORT TO THE CONGRESS CONCERNING TRUST FUND SHORTFALLS

Requires the Board of Trustees to report immediately to Congress whenever the amount in any trust fund is unduly small and to recommend in that report a specific legislative plan to remedy the shortfall. Any plan must be enacted by Congress before taking effect.

F. REIMBURSEMENT TO TRUST FUNDS FOR MILITARY WAGE CREDITS AND UNCASHED OASDI CHECKS

Provides for a lump-sum payment to the OASDI Trust Funds from the General Fund of the Treasury for: (i) The present value of the estimated additional benefits arising from the gratuitous military service wage credits for service before 1957; (ii) the amount of the combined employer-employee OASDHI taxes on the gratuitous military service wage credits for service after 1956 and before 1983; and (iii) the amount of all uncashed benefit checks which have been issued in the past.

TITLE II. ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

Reduces initial benefit levels by 5 percent by decreasing the percentage factors in the benefit formula by two-thirds of 1 percent each year for 8 years beginning in the year 2000. Increases the OASDI tax rate by 0.24 percentage points for employers and employees each in the year 2015.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS

Your Committee's bill also includes several miscellaneous and technical provisions relating to cash management, elimination of gender-based distinctions under the social security program, coverage, and other matters. Among these provisions are the following:

1. TRUST FUND INVESTMENT PROCEDURES

Several changes would be made in the investment procedures of the social security trust funds. Most importantly, a new short-term rate would be added so that the trust funds would be invested at short or long-term rates in order to maximize return to the funds.

2. SOCIAL SECURITY AS A SEPARATE FUNCTION IN THE UNIFIED BUDGET

Requires the OASI, DI, HI and SMI trust fund operations to be displayed as a separate function within the budget. Beginning with fiscal year 1988, these Trust Fund operations except SMI would be removed from the unified budget.

3. SSA AS INDEPENDENT AGENCY

Authorizes a feasibility and implementation study with respect to establishing SSA as an independent agency.

4. PUBLIC PENSION OFFSET

Beginning in July 1983, the amount of a social security beneficiary's public pension offset would be one-third of the public pension.

5. ELECTIVE COMPENSATION

Provides that employer contributions to the following elective compensation arrangements will be includible in the FICA wage base: cash or deferred compensation (section 401(k) of the Internal Revenue Code), cafeteria plans (section 125) and tax-sheltered annuities (section 403(b)).

6. FICA WAGE BASE

Provides that the definition of wages subject to the FICA tax would be interpreted solely with reference to the FICA statute, not with reference to income taxes or income tax withholding. An explicit exclusion from FICA tax would be provided for meals and lodging excluded from income tax under section 119 of the Internal Revenue Code.

7. SIMPLIFIED EMPLOYEE PENSIONS

Provides that employer contributions to a simplified employee pension (SEP) would be exempt from FICA, but employee contributions would be subject to FICA. Conforming changes would be made in the Social Security Act definition of covered wages.

TITLE IV. SUPPLEMENTAL SECURITY INCOME BENEFITS

1. SSI BENEFIT INCREASE AND PASS-THROUGH REQUIREMENTS

The Federal SSI benefit payment is increased by $20 per month for individuals and $30 per month for couples, effective July 1, 1983. The next Federal SSI cost-of-living adjustment would be delayed from July 1983 until January 1984, and the current linkage between the OASDI and the SSI COLA would be maintained.

2. DISREGARD OF EMERGENCY AND OTHER IN-KIND ASSISTANCE

Until September 30, 1983, emergency and other in-kind assistance provided by a private non-profit organization to an aged, blind or disabled individual, or to a family with dependent children, would be disregarded under the SSI and AFDC programs, if the State determines that such assistance was provided on the basis of need.

3. PAYMENT OF SSI TO TEMPORARY RESIDENTS OF PUBLIC EMERGENCY SHELTERS

Aged, blind or disabled individuals who are temporary residents of public emergency shelters could receive SSI payments for a period of up to three months during any 12-month period.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISION

1. EXTENSION OF FEDERAL SUPPLEMENTAL COMPENSATION (FSC) PROGRAM

Extends the FSC program for six months, from April 1, 1983 through September 30, 1983; and provides additional weeks of benefits for individuals who have exhausted basic FSC entitlement.

2. Option for Voluntary Health Insurance Program

Provides States the option of deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits.

3. TREATMENT OF CERTAIN ORGANIZATIONS THAT WERE RETROACTIVELY GRANTED 501(c)(3) STATUS

Allows a nonprofit organization that elects to switch from the contribution to the reimbursement method of financing unemployment benefits to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method, under certain conditions.

TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT HOSPITAL SERVICES

Payment for inpatient hospital services under the medicare program would be made on the basis of prospectively determined rates. The new prospective payment system would reimburse hospitals on a per-case basis. A single payment amount would be paid for each type of case, identified by the diagnosis-related group (DRG) into which each case is classified.

Separate payment rates would apply to urban and rural areas in each of the nine census divisions of the country (the 50 States and the District of Columbia). The regional adjustment would no longer apply (i.e., sunsetted) beginning with payments after the fourth year of the program. The DRG rates would be adjusted for regional differences in hospital wage levels so that hospitals in high wage areas would receive somewhat larger payments than hospitals in lower wage areas. The Secretary would be required to provide additional payment amounts in cases of exceptionally lengthy stays in hospitals and, as determined by the Secretary, for other extra-ordinary costly cases.

Implementation of the system would be phased-in over a 3-year period, starting with each hospital's first accounting year beginning on or after October 1, 1983.

Among the more significant features of the new system are the following:

1. Excludes capital-related costs and direct and indirect expenses associated with medical education activities from payment determinations under the prospective payment system. Medical education expenses, such as the salaries of interns and residents under approved education programs, would continue to be paid on the basis of reasonable cost. In addition, with respect to indirect medical education expenses, and adjustment would be provided equal to twice the amount of the teaching adjustment in the "section 223" limits of present law.

2. Exempts psychiatric, long-term care, children's and rehabilitation hospitals from the prospective payment system. Hospitals with rehabilitation units or psychiatric care units could apply to the Secretary for exemption from the prospective payment system for care rendered in those units. The Secretary would be authorized to provide for exceptions and adjustments to take into account the special needs of sole community providers. Also, the Secretary would be required to provide, by regulation, for such exceptions and adjustments as he or she deems appropriate, including those with respect to public hospitals, teaching hospitals, and hospitals that are extensively involved in cancer treatment and research. In addition, the Secretary would be required to provide exceptions and adjustments for hospitals that serve a disproportionately large number of low-income persons and medicare beneficiaries.

3. Provides for the same administrative and judicial review procedures under the new prospective payment system as those available to hospitals under present law, except that neither administrative nor judicial review of (1) the adequacy of the amount of prospective payments and (2) the establishment of the diagnosis related classifications would be permitted.

4. Requires the Secretary to establish an admissions and discharges monitoring system utilizing the Health Care Financing Administration, medicare intermediaries, professional standards review organizations/professional review organizations or such other medical review authority, to review admission practices and quality of care. In addition, hospitals would, effective October 1, 1984, be required to contract with a professional review organization, or any other review organization authorized to conduct review for the medicare program in an area, for review of admissions, discharges, and quality of care as a condition of receiving medicare payments.

5. Authorizes the Secretary to make medicare payments according to a State's hospital cost control system, if the State so requests, if the system: (1) applies to substantially all non-Federal acute care hospitals; (2) applies to at least 75 percent of hospital

revenues in the State; (3) treats payors, employees, and patients equitably; (4) will not result in greater medicare expenditures over a three-year period than would otherwise have been made; and (5) will not preclude HMOs or CMPs from negotiating directly with hospitals with respect to payment for inpatient hospital services.

6. Requires the Secretary to analyze the impact of the prospective payment plan in operation on individual hospitals, classes of hospitals, and third-party payors, and to report to Congress in each of four years. In addition, GAO would be required to review the adequacy of the Secretary's analysis.

7. In the first year of the program, fiscal year 1984, requires the Secretary to begin to collect data to calculate physician charges for each DRG. The Secretary would be required to report to the Congress by December 31, 1984, on the advisability and feasibility of making physician payments under a prospective payment system.

III. GENERAL EXPLANATION

Introduction

The social security system, both the old-age retirement and survivors and disability cash benefit programs (OASDI) and the Medicare program (HI), is facing under current law a major cash shortfall over the next decade. Under P.L. 97-123, the OASI Fund was allowed to borrow only sufficient funds from the DI and HI Funds to pay benefits through June, 1983. If nothing more were done than to extend interfund borrowing authority, the three combined funds (OASDHI) would be unable to pay benefits on time beginning in the spring of 1984. The critical financing shortfall lasts through about 1990, and the total short-term needs of the system have been estimated at $150 to $200 billion by the National Commission on Social Security Reform.

Over the long-run, under intermediate economic and demographic assumptions, the OASDI system faces a deficit that is projected to develop in 2015 after a period of surpluses in the 1990's. This deficit peaks in 2035 at 4.61 percent of taxable payroll, and averages 2.09 percent over the entire 75-year projection period.

The Medicare system has adequate resources for the immediate future, but will develop a much deeper deficit toward the end of this decade. The HI Trust Fund will be unable to meet its obligations sometime in 1989 under intermediate assumptions, and its deficits are increasingly severe over the remainder of the 25-year forecasting period. The HI deficit averaged over the 1982–2010 period is 1.48 percent of payroll, which means that about 34 percent of its obligations are unfunded under current law; this could be compared with OASDI's .66 percent of payroll surplus over the same period. The long-run financing problem for the Medicare program is primarily to the increasing costs of hospital and medical care.

The short-term financing crisis for the OASI program is the result of two factors: (1) five years of recurring cycles of high inflation coupled with low productivity and high unemployment; and (2) insufficient reserve levels provided by the tax increases and benefit reforms enacted in 1977 (which did not take full effect until 1981 and later).

Beginning in 1972, when OASDI benefit increases were made automatic based on increases in inflation, projections of trust fund experience had to be based on dynamic economic assumptions, that is, on assumptions about future increases in inflation and wage levels, in order to more accurately reflect the future rise in benefit levels and the wage base that would occur automatically. Retaining the old system of static economic assumptions would probably have resulted in underestimating program costs and revenues. However, use of dynamic assumptions in conjunction with a fully indexed benefit structure means that projections of program experience are much more difficult to make accurately. The benefit levels and trust fund income, as well as every set of economic assumptions, are highly sensitive to changing economic conditions particularly near-term fluctuations, so that no set of projections can be absolutely certain.

Compounding this difficulty in predicting economic patterns was an unintended effect of the way automatic benefit increases were applied to existing and new benefits, which caused benefits to increase much more rapidly, in comparison to pre-retirement earnings, than had been anticipated. Thus, from 1972 on, at the same time as the economy was performing more poorly than had been predicted, it was realized that benefits would rise with the automatic provisions more rapidly than anticipated.

Beginning with its report of 1973, the Social Security Board of Trustees repeatedly forecast an adverse financial situation for the program both in near-term (late 1970's and early 1980's) and the long-run i.e., until the middle of the next century. The short-term forecast of the 1977 Trustees' Report showed DI fund reserves falling to zero in late 1978, and OASI reserves being used up by 1983. The same report showed a long-term deficit for OASDI (over the 75-year period) of 8.2 percent of taxable payroll, which represented an average shortfall in revenues of more than 40 percent of the costs of the program.

As a result of these projections, the Congress enacted the 1977 Amendments, which improved forecasts of the financial condition of the program significantly. At the time of enactment, the OASDI program was projected to be in a surplus position through the next 25-year period. The improved short-run outlook was brought about by legislated changes to increase short-term revenues and to reduce benefits.

While the 1977 amendments included major future tax increases and a 25 percent reduction in future benefits, the full effect of these changes was delayed until 1981 and later. At the time the amendments were enacted, it was known that the safety margin provided in the early years would not be very great, but the system at that point had reserves of $40 billion, which were thought to be sufficient to assure benefit payments until the additional revenues from the major tax increases could be realized. It should also be noted that the 1977 Amendments reduced the long-term deficit from 8.2 percent to 1.4 percent of payroll, but did not attempt to eliminate the long-term deficit.

Economic conditions since 1977 have again proved to be substantially worse than previously predicted, as indicated in the table below; each percentage point in the CPI increases trust fund costs by about $1.5 billion, so that the 1980 increase alone cost about $13 billion more than predicted. As a result, benefit increases raised trust fund outlays beyond expectations at precisely the time real wages were declining and unemployment was increasing, so that revenues have not kept pace with outlays. The OASI porgram has had to use reserves to make up for shorfalls in yearly income every year since 1977. Consequently, OASI reserves were significantly reduced and interfund borrowing authority was authorized by Congress in December 1981, to allow the OASI fund to borrow from DI and HI fund reserves in late 1982 to assure benefit payments through July, 1983.

COMPARISON OF KEY ECONOMIC INDICATORS, 1977 FORECAST AND ACTUAL EXPERIENCE

Calendar year	CPI increase		Real wages		Unemployment	
	Estimate	Actual	Estimate	Actual	Estimate	Actual
1977	6.0	6.5	2.4	1.6	7.1	7.0
1978	5.4	7.6	2.7	0.6	6.3	6.0
1979	5.3	11.5	2.5	−2.7	5.7	5.8
1980	4.7	13.5	2.4	−4.9	5.2	7.1
1981	4.1	10.3	2.3	−1.6	5.0	7.6
1982	4.0	6.0	2.0	−0.4	5.0	9.7

Titles I, II, and III of your Committee's bill are therefore intended to restore the financial soundness of the old age and survivors' and disability insurance trust funds, both in the short-term and over the entire seventy-five year forecasting period. In order to accomplish this goal your Committee has approved a number of reforms, including major extensions of social security coverage, changes in the types of income subject to social security and income taxes, acceleration of payments into the trust funds from general revenues, reductions in benefit levels, and increases in OASDI tax rates (both the employer-employee rate and the self-employment rate). The combination of these measures will increase revenues, and reduce benefit outlays over the short-term for a total of $165.3 billion. Over the long-run, these reforms will eliminate the currently projected long-term deficit of 2.09 percent of payroll. In addition, the bill provides a stabilizing mechanism that will reduce the sensitivity of the system's financing to economic fluctuations.

A. Provisions Affecting the Financing of the Social Security System (Title I)

1. General Discussion

A. COVERAGE

Section 101. Newly hired and certain current Federal employees

The social security system under present law covers over ninety percent of jobs in paid employment, over 115 million workers. The ten percent of workers not now covered by social security includes most Federal civilian workers (2.4 out of 2.7 million), about 30 percent of State and local employees (approximately 3 million), and 10–15 percent of employees of nonprofit organizations (up to 1 million).

The Social Security Act of 1935 excluded from coverage all civilian employment for the Federal government or for an instrumentality of the United States. At that time, the Federal Civil Service Retirement (CSR) system, which covered most Federal civilian employment, had been in existence for 15 years and there seemed to be no need for Federal employees to be covered under two retirement systems.

The Social Security Amendments of 1950, as part of a major expansion of the social security program, covered civilian employees of the Federal Government who were not covered under any Federal retirement system. (These employees were short-term Federal employees who were considered likely to shift between Federal and private employment.) The 1950 amendments specifically excluded from coverage services performed for the Federal Government by the President, the Vice President, Members of Congress, legislative employees of the Congress, inmates of Federal penal institutions, certain student employees of Federal hospitals, and temporary, emergency employees.

Your Committee has been concerned about this issue for many years because the exclusion of most civilian employees of the Federal Government from social security coverage has resulted in two major problems, related mainly to the large number of workers who shift between Federal employment and work covered under social security. The first problem is that there are gaps in protection of workers who have worked both under the CSR system and social security; some employees only qualify for benefits under one system so that their benefits are not based on their lifetime earnings and contributions to both systems, while other employees fail to get benefits under either system. The second problem is that many employees who have worked under both systems are able to qualify for social security benefits by working for relatively short periods in jobs covered under social security, and to also qualify for substantial CSR benefits.

A succession of studies, advisory councils and commissions have recommended repeatedly that social security coverage be extended to Federal workers. The most recent example of such advice is the National Commission on Social Security Reform, which recommended that newly hired Federal employees be brought into the system.

Your Committee's bill provides for coverage under social security of the following groups: (1) all Federal employees hired on or after January 1, 1984, including those with previous periods of Federal service if the break in Federal service lasted at least 365 days; (2) legislative branch employees on the same basis, as well as all current employees of the legislative branch who are not participating in the Civil Service Retirement System as of December 31, 1983; (3) all Members of Congress, the President and the Vice-President effective January 1, 1984; (4) all sitting Federal judges, and all executive level and senior executive service political appointees, as of January 1, 1984.

This provision of your Committee's bill does not, and is not intended to, affect in any way the existing civil service retirement provisions or the applicability of such provisions to the newly covered employees and Members of Congress. Federal employees affected by the provision, including Members of Congress, who choose to participate in the civil service retirement program will continue to contribute the full amount to the Civil Service Retirement Fund as required by existing provisions of law, until those provisions are modified by the Congress.

The members of your Committee are firmly committed to the proposition that Federal employees are entitled to comprehensive retirement protection and that a supplemental pension plan should be enacted for Federal employees which would provide such protection. Development of such a plan is the responsibility of the Committee on Post Office and Civil Service, whose Chairman has expressed a similar commitment to developing a supplemental plan.

Your Committee is convinced that extension of coverage to new Federal workers will result in improving protection and retirement benefits for the vast majority of these employees, for several reasons:

(1) Social security provides family and survivor benefits with no reduction in the benefit of the worker.

(2) Disability protection under social security requires recent covered employment, so that workers leaving Federal service are without disability protection for several years.

(3) Over half of all workers who enter Federal employment will eventually leave Federal service with no eligibility for CSRS benefits; if they take their contributions with them, they receive no interest on contributions after the first 5 years, or employer-share contributions. Thus, their eventual social security benefits may be lower then if their Federal employment had been covered, and they will not have received any benefits at all from their contributions to CSRS.

(4) Federal employees who are low-paid would receive the advantage of the social security weighted benefits formula. The CSR benefit formula gives a greater advantage to higher-paid long-career workers.

Section 102. Mandatory coverage of employees of nonprofit organizations

Under current law, work performed for a nonprofit religious, charitable, educational or other tax-exempt organization of the type described in section 501(c)(3) of the Internal Revenue Code is covered under social security if the organization files a certificate (or is presumed to have filed one under the "presumptive waiver" interpretation) with the Internal Revenue Service waiving its exemption from social security taxation. Work performed for other nonprofit organizations is covered compulsorily. It is estimated that about 80 to 90 percent of the roughly 5.3 million employees of 501 (c)(3) nonprofit organizations are covered under social security; over 80 percent of employees in nonprofit organizations are involved in health or education-related activities.

Nonprofit organizations may terminate coverage for their employees upon giving 2 years' advance notice to the Secretary of Treasury, but the notice may not be given until the coverage has been in effect for at least 8 years. Also, the Secretary may terminate coverage if the organization is no longer able to meet the requirements of section 501(c)(3) of the Code (in which case the employees are covered mandatorily), or if it is unable to pay the required social security contributions. As is the case for State and local governments, once coverage has been terminated for a nonprofit employer, the employer cannot again provide social security coverage for his employees. Also, nonprofit employers are under no legal constraint to notify employees that notice of termination has been filed with the Treasury Department, or to hold a referendum on the matter.

Coverage was extended on an optional basis to employees of State and local governments and of tax-exempt nonprofit groups beginning in 1950 for several reasons: (1) Congress had covered those most in need of social security first, primarily industrial workers, and since State and local government employees in many cases had retirement systems already, they had relatively low priority; (2) most nonprofit groups were covered mandatorily, but religious and philanthropic groups opposed mandatory coverage originally because of fears of Federal influence over religious activities; (3) by 1950, these groups wanted social security coverage but only if it did not threaten already existing retirement systems and, in the case of nonprofit groups, separation of church and State.

To avoid these constitutional issues, and the issues with religious groups that would have been raised by mandatory coverage, Congress covered these groups on an optional basis.

Your Committee has been deeply concerned about the growing trend toward termination of coverage for nonprofit employees. The number of organizations filing to terminate coverage for their employees has dramatically increased over the last three years. Through December 1984, termination notices are pending for 977 nonprofit organizations, including 424 hospitals employing 322,600 employees.

The major reasons for the recent acceleration in terminations are first, the desire of some nonprofit employers (primarily nonprofit hospitals) to look to withdrawal from social security as a way to reduce operating costs, and second, the general perception on the part of younger workers that the social security system will not be able to pay benefits when they reach retirement and that they would thus be better off withdrawing from the system and providing for their own retirement needs. However, the lack of social security coverage for these workers means they must forfeit the advantages of a nearly universal social insurance system. The major consequences for workers include: the loss of specific features of social security that are difficult to replace; the creation of gaps in the worker's earnings record; and the possible loss of some or all pension protection because of the limited portability and varying vesting requirements of private plans.

Social security cannot be replaced for these workers through a private insurance plan or investments. Individual planning can only protect the worker against those risks he chooses to protect himself against. An individual deciding on specific insurance coverage will know whether he has chosen correctly, only when it is too late to do anything about it. In contrast, the social insurance system provides benefits in the event of a very broad variety of circumstances which may not be predicted in advance, i.e., early death or disability, or divorce, which is particularly important in the case of women employees. Social security also provides family protection which young workers may not anticipate needing but which may become valuable if, for example, both members of a married couple do not or cannot work steadily throughout their careers.

Moreover private pension plan coverage is generally not portable. Because private pensions are funded independently by the specific employer involved (or group of employers in the case of multiemployer plans), rights accrued under one plan cannot generally be transferred, or built upon through work for another employer. Many plans do provide permanent rights to a pension of some sort at retirement if the worker stays with the employer long enough to accrue vested rights. However, deferred compensation plans of this sort cannot compensate for inflation over the worker's whole working career. The amount of any deferred pension an employee retains after leaving a job is usually frozen despite subsequent inflation that would have been recognized by increasing the pension earned for those years if the employee had stayed in the job.

Workers can easily move from one noncovered job to another throughout a substantial working career and never acquire any basic pension protection, or social security coverage. The problem of portability is particularly acute for low and average wage workers who have little or no margin of income for savings that might compensate for the lack of private pension coverage, and for women who already may have substantial periods of noncovered earnings because of childcare responsibilities.

In order to resolve these problems and guarantee social security protection for all nonprofit employees, your Committee's bill extends social security coverage on a mandatory basis to all employees of nonprofit organizations as of January 1, 1984. This coverage will extend both to employees of organizations that have terminated coverage as well as to those which have never been covered. Termination notices now pending would be invalid. In addition, the bill provides a special provision for older nonprofit employees: nonprofit employees age 55 or older affected by this provision would be deemed to be fully insured for social security benefits after acquiring a given number of quarters of coverage, according to a sliding scale set in the law (e.g., 20 quarters would be required for persons age 55 and 56, ranging down to 6 quarters for those age 60 and over).

Section 103. Duration of agreements for coverage of State and local employees

Social security coverage for employees of the States and their political subdivisions is available only through agreements between the Secretary of Health and Human Services and the States. Under the agreements, each State decides which groups of employees (e.g., a specific county, city, teachers, etc.) will be covered, subject to provisions in the Federal law (affecting relatively few people) which mandate referendums of affected members of existing retirement systems in order to approve extension of coverage to their group. Under these provisions, about 70 percent—some 9.4 million out of the approximately 13.2 million State and local employees—are covered under social security. The major exceptions are the employees of the State of Alaska, the only State to withdraw from the system, and of Maine, Massachusetts, Nevada, and Ohio, which never chose to participate in the system.

The social security law permits termination of coverage for employees of State and local governments. The action to terminate coverage must be taken by the State, rather than by the employees of the State or local governments involved, and the termination applies to the whole group of employees covered under a specific agreement. The State must give 2 years' advance notice to the Secretary of its desire to terminate social security coverage of the employees of a political subdivision, and such notice cannot be given until after the coverage has been in effect for at least 5 years. The law also provides that once coverage has been terminated for a group of employees it can never again be provided for that group. There is no requirement in the law that the employees involved be notified when a notice of termination is filed, or when coverage has actually been terminated. In addition, the Secretary may terminate an agreement if, after a hearing, he finds that a State either had "failed or is no longer legally able to comply with any provision" of the agreement.

Your Committee has been deeply concerned about the growing trend toward termination of coverage by State and local governments. During the first two decades after voluntary participation was allowed in 1950, coverage of State and local groups expanded dramatically, and very few took the opportunity to withdraw. By the early 1960's most States had made coverage agreements and the percentage of State and local employees covered under social security reached 70 percent.

Until the mid-1970's, the number of employees leaving the system was always greatly exceeded by the number of newly-covered employees—in most years, by 50,000 or more. Moreover, many terminations were caused by consolidation of local jurisdictions, rather than by withdrawal from the social security system.

However, 1976 was the last year that newly-covered positions exceeded the number of terminated positions and in six years since then, numbers of positions being terminated from coverage have exceeded the numbers of newly-covered positions. This reversal is due at least in part to the fact that coverage had finally been extended by the mid-1970's to those employees most in need of coverage, which was of course the original notion underlying voluntary participation. Coverage of State and local employees has remained fairly constant at 70–72 percent for over 10 years.

The number of governments filing termination notices did increase in conjunction with widespread concern about the financial conditions of social security that preceded the 1977 Amendments. While this rate of filing slowed down after the 1977 amendments, considerable acceleration in filing for terminations for State and local governments has occurred since 1980, again in conjunction with widespread concern about the financial viability of the trust funds, and about the economy in general.

During the five-year period from 1977 through 1981, when termination activity was greater than in the previous ten years, coverage was terminated for 96,000 State and local government employees; as of December, 1982 coverage had been terminated for 595 State entities employing 190,000 workers. In contrast, for the two-year period of 1983–84, terminations are pending for 634 State and local entities employing 227,000 workers.

Your Committee strongly feels that the ability to terminate coverage for State and local government employees is inequitable both for the employees who lose coverage and for the vast majority of the nation's workforce who continue to pay into the system. The provision of voluntary coverage for some groups of workers directly affects the function of social security as the Nation's basic social insurance system. The voluntary coverage provision can be seen as an anomaly in the context of a basically mandatory system, the result of congressional desire to extend coverage as quickly and with as little difficulty as possible to those employees who needed it most.

As long as the elements of voluntarism had only a marginal effect on the operation of the system, the provision for optional coverage was seen as a benign opportunity for employees to obtain coverage when they otherwise would have been excluded. Serious questions have been raised about voluntary coverage only when employers have started to file for withdrawal in significant numbers and for reasons that appear to have more to do with reducing operating costs than providing basic, adequate protection for all employees.

Under current law, the terms of participation in social security are not determined by the employees according to the kind of benefit protection they want, but by the employer according to the kind of fringe benefits he wishes to provide to specific employees. The employer may view the worker who leaves after a relatively short time as a marginal employee for whom he has little interest in providing attractive pension benefits. Consistent with this view, most State government retirement systems are designed to best serve long-term employees. Yet from the point of view of social policy, the employee who moves from job to job needs basic social insurance protection as much as a worker who stays at one job his entire career. The interests of the employer who wishes to retain career employees with a good benefit package may not be consistent with overall social policy, or with the interests of all his employees, both present and future.

A second area of general concern is the resentment created by voluntary withdrawals from the system among workers covered on a mandatory basis. In particular, the shifting of the tax burden of social security from those workers who withdraw, but who remain entitled to future benefits based on their past earnings, to workers who remain in the system is seen as inequitable. It also appears inconsistent that society views social insurance as such a basic program that participation is mandatory for most, like the rest of the tax system, yet for some workers participation is optional. Regardless of their opinion about the objective merits of social security coverage, those who must pay the taxes will inevitably view optional participation as unfair.

Your Committee's bill, therefore, prohibits State and local govenments from terminating coverage for their employees if the termination has not taken effect by the date legislation is enacted. Since those termination notices do not take effect until the end of the calendar year, notices now pending would be invalid under this provision. The bill also allows State and local governments which have withdrawn from the social security system to voluntarily rejoin. Once having rejoined, the governmental entity would be precluded from terminating coverage.

B. COMPUTATION OF BENEFIT AMOUNTS

Section 111. Shift of cost-of-living adjustments to calendar year basis

Since 1975 social security recipients have received a cost-of-living adjustment annually in June (July check). Under current law these adjustments are provided automatically to reflect increases in the consumer price index. The increases are measured from the first quarter of the current year over the first quarter of the previous year in which an increase occurred. No increase is provided in any year in which this computation is less than three percent.

Your Committee concluded, as did the National Commission on Social Security Reform that any fair and balanced approach to eliminating the current deficit in the social security program must involve an equitable distribution of the overall cost among all segments of the community, including current beneficiaries. Thus, your Committee's bill would delay the 1983 cost-of-living adjustment for six months, until Decmeber 1983 (January 1984 check). The cost-of-living adjustment provided at that time would be based on the same computation that would have been used for the June 1983 increase (first quarter of 1983 over first quarter of 1982). Thereafter all automatic cost-of-living increases would be provided in December (Janaury checks) and the computation would be based on the third quarter of that year over the third quarter of the previous year in which a benefit increase was provided.

Your Committee notes that since COLA increases are cumulative, even this one-time delay will result in some permanent reduction of benefits for affected beneficiaries. This will provide a long-range savings to the OASDI system.

Your Committee has taken note of the fact that the rate of inflation has been declining. It is conceivable, therefore, (although not probable) that the CPI could drop below 3 percent for the computation for the 1983 benefit increase. Since the cost-of-living is already being delayed six months in this year, your Committee is concerned that precaution be taken to ensure that a COLA will be paid in December. Therefore, for 1983 only, your Committee's bill provides for a waiver of the three percent limitation. For 1983 beneficiaries will receive a cost-of-living adjustment even if it is below three percent. In the future, the three percent limitation would continue to be applied.

Section 112. Cost-of-living increase to be based on either wages or prices (whichever is lower) when balance in OASDI trust funds falls below specified level

Social security benefits are adjusted automatically every year reflect increases in the Consumer Price Index. Such adjustments are made without regard to the status of the trust fund reserves.

Income to the social security system depends on the level of wages on which social security contributions are made. When increases in prices outrun increases in wages, income to the trust funds falls behind increases in benefit payments, and cash flow problems may result, depending on whether accumulated fund reserves are sufficient to make up the gap between income and outlays.

There is no mechanism under current law to adjust trust fund outlays and revenues to take account of economic fluctuations. Most of the current short-term financing problem is the result of the recent sustained period of high inflation coupled with low productivity that has caused benefit increases to outstrip revenue increases.

To correct this problem, your Committee bill provides that whenever OASDI Trust Fund reserves drop below 20 percent at the beginning of any year after 1987 (except that for 1988 the reserves would be calculated at the end of the year), then the cost-of-living increase for that year would be based on the increase in the CPI or in average wages, whichever is lower. When the trust fund reserves reached 32 percent, a catch-up would be provided to those beneficiaries who had earlier suffered a reduction in their benefits. During any period where the reserves were between 20 and 32 percent, cost-of-living increases would be provided under the normal calculation.

This provision would protect against a severe and rapid drop in trust fund reserves in times such as those recently experienced where for several years inflation outpaced wage growth. Your Committee recognizes that this formula does not provide protection against other adverse conditions such as high unemployment, which reduces income to the trust funds, but feels that this is a sufficiently important safeguard that it should be incorporated into the law.

Your Committee also wishes to make clear the measure of reserve levels to be used for 1988, the first year this provision takes effect. The provision states that for 1988 only, the reserve level to be examined is the end-of-year reserve. This reserve level in December, 1988 should be evaluated in conjunction with the operation of section 141 of your Committee's bill, which requires crediting monthly revenues to the trust funds at the beginning of each month. The 1988 end-of-year reserve should include revenues credited to the funds in December, 1988 for January, 1989, in order to obtain a realistic measure of the funds available for benefit payment in 1989. Similarly, in all subsequent years your Committee intends that the calculation of the reserve level at the beginning of each year will take into account the operation of the fixed monthly tax transfer procedure.

The calculation of average wages will be the same calculation now used to compute average wage increases for other aspects of the social security program such as increases in the formula bend points and the wage base.

Section 113. Elimination of windfall benefits for persons receiving pensions from noncovered employment

Over the last several years, your Committee has examined in depth the problem of "windfalls," the term used to describe the advantage from the benefit formula accuring to those who work under social security only for a short time, particularly those with pensions from noncovered employment. This windfall for those with less than full careers under social security combined with substantial noncovered work can be seen as an anomalous result of workers being able to move between covered and noncovered employment.

This windfall benefit is a direct result of the social security benefit formula, which does not distinguish well between workers with lifetime low earnings, and workers with less than a full career in covered work. The social security benefit formula is weighted toward low-wage earners, replacing 90 percent of the first bracket amount of monthly average indexed wages ($254 in 1983). Thus, an earnings history of 15 years, when spread over the 35-year averaging period for benefits, will result in a heavily weighted benefit, even if the worker was not a low-wage earner.

The formula works as intended for those who remain in covered employment throughout their careers. In addition, the formula provides workers who have periods of unemployment that result in gaps in their earnings records (such as women who leave the labor force periodically to raise children, or workers who suffer periodic, involuntary unemployment) with some compensation in the form of weighted benefits. However, the formula results in unintended windfalls in cases where the worker has low covered earnings because he has a career in noncovered work for which he receives a pension.

These pensions, particularly Federal and State civil service pensions, are generally designed to take the place both of social security and a private pension plan for workers who remain in noncovered employment throughout their careers. Thus, a person eligible for such a pension will receive retirement income roughly equivalent to what social security and a private pension would give a worker with similar earnings under social security. If the noncovered worker in addition is eligible for a heavily weighted social security benefit, through moonlighting or through a relatively short career under social security, his total retirement pension income will most likely greatly exceed that of a worker with similar earnings all under social security.

Your Committee emphasizes that these windfalls are not the result of deliberate actions on the part of workers in noncovered employment, but rather are the necessary result of the operation of the social security benefit formula. Therefore, your Committee's bill resolves the problem through changes in the benefit formula which will be applicable to workers who are eligible for a pension from noncovered employment. Under the current formula, benefits are 90 calculated as follows: percent of the first $254 of average monthly earnings, 32 percent of earnings from $254 to $1,538, and 15 percent of earnings above $1,538 (1983 dollar amounts). The new formula applicable to those with pensions from noncovered employment would substitute 61 percent for the 90 percent factor. In addition, the new formula provides a guarantee that the resulting reduction in the worker's social security benefit cannot be more than one-half the amount of the noncovered pension. This provision will be applicable to persons reaching age 60 after December 31, 1983, to give some time for workers to adjust their retirement plans.

Section 114. Increase in old age insurance benefit amounts based on account of delayed retirement

Under present law, for those who turn age 62 before 1979, the worker's benefit (PIA) is increased one-twelfth of one percent for each month he delays retirement past age 65 (or one percent per year). When the benefit formula was changed in 1977 to affect those who turn age 62 in 1979 and afterward, it was recognized that under the formula, which relies on wage histories that are indexed through age 60 and unindexed after age 60, some further offset was needed after age 65 to enable the wage computation to keep pace with real wage growth in the economy. Congress also at that time expressed a desire to extend some small reward, in the form of larger benefits, for those who delayed retirement. Accordingly, under current law, for those who turn age 62 after 1979 (and are therefore affected by the new formula) the PIA is increased one quarter of one percent per month (or three percent per year) for each month the worker delays filing for benefits past age 65.

Your Committee continues to believe that it is desirable to provide incentives for individuals to remain in employment beyond normal retirement age. Thus, your Committee bill would gradually increase the delayed retirement credit from three percent per year to eight percent per year for those who reach age 62 after 1986. The increase would be phased-in over an eighteen year period by increasing the current 3 percent per year delayed retirement credit to 3½ percent per year for those age 62 in 1987 and continuing to increase the credit by one-half of one percent per year for every other cohort of eligible retirees. Ultimately for those who turn age 62 in 2005 and beyond (age 65 in 2008 and beyond), benefits would be increased by two-thirds of one percent per month (or eight percent per year).

This will dramatically increase the amount by which the combined effects of (1) the reduction factors before age 65, (2) use of earnings after age 61 in the benefit computation and (3) the delayed retirement credit can result in higher benefits for workers who delay retirement. For an average earner who reached age 62 in 1983, for instance, the benefit if retirement is delayed to age 70 is, under current law, projected to be 64 percent higher than his age 62 benefit. If the eight percent delayed retirement credit were available to him, his projected benefit at age 70 would be 99 percent higher than it would be at age 62.

The delayed retirement credit (at whatever level) is available for individuals between the ages of 65 and 70. After age 70 no credit applies since beginning in 1983 there is no earnings test for beneficiaries who are age 70 or more.

C. REVENUE PROVISIONS

Section 121. Taxation of social security and railroad retirement benefits

Under present law, social security benefits are excluded from the gross income of the recipient. Their exclusion is based upon a series of administrative rulings issued by the Internal Revenue Service in 1938 and 1941 (see I.T. 3194, 1938-1 C.B. 114, I.T. 3229, 1938-2 C.B. 136, and I.T. 3447, 1941-1 C.B. 191). Railroad retirement benefits are excluded from gross income under the Railroad Retirement Act.

In general, the gross amount of fixed or determinable annual or periodic income (which is not effectively connected with a U.S. trade or business) received by a nonresident alien from U.S. sources is subject to a 30-percent tax (Code sec. 871); this tax is collected by withholding (sec. 1441). A pension for services performed in the United States would be U.S.-source income and the gross amount of a U.S.-source pension is subject to the 30-pecent withholding tax or a lower rate if so provided by treaty. The U.S. Model Income Tax Treaty, as well as a number of actual tax treaties to which the United States is a party, provides reciprocally that pensions received by a resident of one country from sources in the other country are taxable only by the country of residence. However, the United States has reserved the right to tax social security benefits in the U.S. Model Income Tax Treaty and a number of actual tax treaties.

Your Committee believes that the present policy of excluding all social security benefits from a recipient's gross income is inappropriate. Your Committee believes that social security benefits are in the nature of benefits received under other retirement systems, which are subject to taxation to the extent they exceed a worker's after-tax contributions and that taxing a portion of social sercurity benefits will improve tax equity by treating more nearly equally all forms of retirement and other income that are designed to replace lost wages (for example, unemployment compensation and sick pay). Furthermore, by taxing social security revenues and appropriating these benefits to the appropriate trust funds, the financial solvency of the social security trust funds will be strengthened.

Because Tier 1 benefits provided under the Railroad Retirement Act are essentially equivalent to social security benefits, your Committee believes that corresponding changes also should be made in the tax treatment of these benefits. This is, a portion of railroad retirement benefits also should be subject to income taxation.

By taxing only a portion of social security and railroad retirement benefits (that is, up to one-half of benefits in excess of a certain base amount). Your Committee's bill assures that lower-income individuals, many of whom rely upon their benefits to afford basic necessities, will not be taxed on their benefits. The maximum proportion of benefits taxed is one-half in recognition of the fact that social security benefits are partially financed by after-tax employee contributions. The bill's method for taxing benefits assures that only those taxpayers who have substantial taxable income from other sources will be taxed on a portion of the benefits they receive.

Taxation of social security and railroad retirement benefits

Under your Committee's bill, a portion of social security benefits will be included in the gross income of recipients whose adjusted gross income exceeds certain levels. (This provision is not intended to change the tax treatment of social security benefits paid by foreign governments; these benefits have been held by Treasury to be fully includible in gross income (Rev. Rul. 62-1979, 1962-2, C.B. 20)). The bill defines a "social security benefit" as any amount received by the taxpayer by reason of entitlement to either (1) a monthly benefit under title II of the Social Security Act (Federal Old-Age, Survivors, and Disability Insurance Benefits (OASDI)), or (2) Tier 1 benefit under the Railroad Retirement Act of 1974. A Tier 1 benefit generally is a monthly benefit equal to what an individual would receive if the formula for computing social security benefits were applied to the individual's history of covered wages under both the social security and railroad retirement systems.

Social Security benefits, to the extent they are taxable, will be included in the taxable income of the person who has the legal right to receive the benefits. For example, benefits paid to a child will be considered to be the child's and will be added to the child's other income to determine whether they are taxable. The amount of benefits received refers to benefit payments after reductions under such provisions as actuarial reductions, family maximum, and the earnings test, but to include certain amounts that may be withheld from benefits, such as payments of supplementary medical insurance premiums, where the amounts withheld are for the purpose of meeting a financial obligation incurred by the individual entitled to receive such benefit payments. In addition, the amount of any social security benefits received will include the total amount of the benefits without any reduction for attorneys' fees, if any, paid in order to enable an individual to receive those benefits. The Committee expects the Secretary of the Treasury to provide guidance on the use and extent to which expenses (such as attorneys' fees) incurred in perfecting claims to social security benefits may be deducted, now that some of the social security benefits may be taxed.

Social security benefits that will be included in the gross income of a taxpayer for a taxable year will be limited to the lesser of (1) one-half of the social security benefits received, or (2) one-half of the excess of the sum of the taxpayer's adjusted gross income plus one-half of the social security benefits received over the appropriate base amount. Thus, the maximum proportion of social security benefits that will be included in the gross income of any taxpayer will be one-half of benefits.

The base amount is $32,000 in the case of a married individual filing a joint return; zero in the case of a married individual filing a separate return, unless he or she lived apart from his or her spouse for the entire taxable year; and $25,000 in the case of all other individuals.

The base amount is zero for married individuals filing separate returns because the committee believes that the family should be treated as an integral unit in determining the amount of social security benefit that is includible in gross income under this provision. If the base amount for these individuals were higher, couples who are otherwise subject to tax on their benefits and whose incomes are relatively equally divided would be able to reduce substantially the amount of benefits subject to tax by filing separate returns.

For the purpose of determining how much of a taxpayer's social security benefit will be included in gross income, a taxpayer will be permited to reduce benefits received during the taxable year by the amount of benefits, previously received during the current or any preceding taxable year, that he repays during the taxable year. This provision is necessary to prevent a taxpayer from being subject to taxation on his benefits in those situations in which a taxpayer must repay a portion of those benefits because he has been overpaid previously. A taxpayer will be permitted an itemized deducation for repayments of social security benefits to the extent that the repayments exceed social security benefits received by the taxpayer, and not repaid, during the taxable year. Alternatively, if such amount repaid exceeds $3,000, the taxpayer has the option under section 1341 to compute tax for the taxable year without the deduction and to subtract from that amount the reduction in tax that would have resulted from excluding the amount repaid from income for the year of the overpayment.

Your Committee's bill provides that social security benefits potentially subject to tax will include any workmen's compensation whose receipt caused a reduction in social security disability benefits. For example, if an individual were entitled to $10,000 of social security disability benefits but received only $6,000 because of the receipt of $4,000 of workmen's compensation benefits, then, for purposes of the provisions taxing social security benefits, the individual will be considered to have received $10,000 of social security benefits.

Your Committee's bill provides an elective, special rule for taxpayers who receive lump-sum payments. This rule was determined to be necessary because in some situations involving lump-sum payments of benefits attributable to prior years, the general income-averaging rules may not provide adequate relief.

If this special rule is elected, the taxpayer will determine the tax for the taxable year of receipt of the lump-sum payment by including in gross income for the current year the sum of the increases in gross income that result solely from taking into account the appropriate portions of the lump-sum payment in the taxable year to which they are attributable. Your Committee intends that when lump-sum payments are made, the Social Security Administration or Railroad Retirement Board will notify the recipients thereof of the taxable years to which the payments are attributable.

Returns relating to social security benefits

Information reporting will be required with respect to benefit payments. Specifically, the appropriate Federal official (*i.e.*, the Secretary of Health and Human Services, in the case of social security benefits, and the Railroad Retirement Board, in the case of railroad retirement benefits) will be required to report to the Treasury (1) the aggregate amount of benefits paid with respect to any individual during any calendar year; (2) the aggregate amount of benefits repaid by the individual during the calendar year; (3) aggregate reductions in benefits otherwise payable due to the receipt of workmen's compensation benefits; and (4) the name and address of the individual with respect to whom benefits are paid. In addition, each individual receiving social security or railroad retirement benefits will be furnished with a written statement showing (1) the name of the agency making the payments, and (2) the aggregate amount of payments, repayments, and reductions. This statement will be due by January 31 of the year following the year in which social security benefits are paid.

Treatment of nonresident aliens

Your Committee's bill provides that social security benefits paid by the United States are U.S.-source income for purposes of the Code, including the foreign tax credit. In addition, one-half of social security benefits paid to nonresident aliens will be subject to the general 30-percent tax which will be collected by withholding. Your Committee's bill is not intended to override the treatment of social security benefits provided in existing income tax treaties to which the United States is a party.

Your Committee's bill permits the Secretary of the Treasury to disclose to the Social Security Administration or the Railroad Retirement Board available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a resident or citizen of the United States. This information, which may be disclosed upon written request, may be disclosed to the Social Security Administration and the Railroad Retirement Board only for purposes of carrying out their responsibilities for withholding taxes from social security benefits of nonresident aliens. Any return information disclosed under this provision will be subject to the present law requirements regarding recordkeeping and safeguarding of return information.

Transfers to trust funds

Your Committee's bill appropriates to each payor fund the increase in Federal income tax liabilities attributable to taxing social security benefits. This amount is the difference between total income tax liabilities for the year and what income tax liabilities would have been without the application of the Code sections which provide for the taxation of benefits. A "payor fund" is any trust fund or account from which payments of social security benefits are made.

The appropriated amounts are to be transferred from time to time (but no less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury. Transfers to the payor funds may be based on the proportion of each type of benefit as a share of the total benefits potentially includible in gross income under these provisions. For example, suppose that after adding OASI benefits, DI benefits and Tier I railroad retirement benefits the shares of these in the total are 80 percent, 16 percent, and 4 percent, respectively. These percentages of the increase in tax liabilities described above may then be transferred to the respective funds.

Any quarterly payment to a payor trust fund must be made on the first day of the quarter and must take into account social security benefits estimated to be received during the quarter. Proper adjustments are to be made in the amounts subsequently transferred to the extent that prior estimates were in excess of, or less than, the amounts required to be transferred. A final determination of the amount required to be transferred for a year may be based on an estimate derived from the appropriately weighted sample of individual income tax returns for that year which is used as the basis for the Internal Revenue Service's publication of statistics of income for that year under Code section 6108. In making these estimates, the Secretary of the Treasury need not take account of certain provisions of the tax law that might affect an individual's tax liability (*e.g.*, income averaging, loss carrybacks, etc.) if these provisions are judged to have an inconsequential effect on the estimates.

The Secretary of the Treasury will be required to submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board concerning (1) the transfers made during the year, and the methodology used in determining the amount of the transfers and the funds or account to which made, and (2) the anticipated operation of the transfer mechanism during the next five years.

Taxation of Tier One railroad retirement benefits

Your Committee's bill provides that railroad retirement "Tier 1" benefits are subject to taxation to the same extent and in the same manner as monthly benefits payable under title II of the Social Security Act. As a result of this change, certain amounts will be transferred regularly to the Railroad Retirment Account.

Your Committee is aware that, in light of the financial interchange that exists between social security and railroad retirement, the final disposition of the amounts transferred to the railroad account remains unclear. One view is that since the financial interchange has historically netted Tier 1 *payroll* taxes received by railroad retirment system against social security equivalent benefits paid by the railroad retirement system, the amounts added to the Account as a result of this change in *income* tax law would have no effect on amounts transferred under the interchange. The alternate view is that amounts appropriated to the Railroad Retirement Account as a result of this change made by this section would reduce the amount of the interchange which would have otherwise been transferred. This would be done in order to restore the Social Security Trust Funds to the position they would have been had railroad employment been covered by social security since 1937.

Effective date

In general, the provisions will apply to benefits received after December 31, 1983, in taxable years ending after that date. However, the provisions will not apply to benefits received after December 31, 1983, if the generally applicable payment date of these benefits was before January 1, 1984.

Section 122. Credit for the elderly and the permanently and totally disabled

Under present law, individuals who are age 65 or over may claim a tax credit equal to 15 percent of a base amount. Before the reductions described below, the maximum base amount is $2,500 for a single person or for a married couple filing a joint return, if only one spouse is 65 or over. For a married couple filing a joint return, when both spouses are 65 or over, the base amount initially is

$3,750. For a married couple filing separate returns, the initial base amount is $1,875.

The maximum base amount (i.e., $2,500, $3,750, or $1,875) for the credit is reduced by amounts received by the individual (and by the spouse in the case of a married couple filing a joint return) as a pension or annuity under the Social Security Act, the Railroad Retirement Act, or certain other pensions or annuities that are otherwise excluded from gross income. For example, no reduction is required for pension or annuity payments from a tax-qualified pension plan, even though the amounts may be excluded from gross income.

The base amount is reduced further by one-half of adjusted gross income in excess of $7,500 for a single person and $10,000 for a married couple filing a joint return ($5,000 for a married individual filing a separate return). Thus, for example, a single individual with adjusted gross income of $12,500 or more is not eligible for the credit.

Individuals under age 65 who have income from a public retirement system also are eligible for the credit. However, the credit is based only upon the individual's income from a public retirement system up to the maximum base amount. Further, the credit is reduced by certain amounts of earned income rather than adjusted gross income.

The credit for the elderly is nonrefundable, i.e., it may not exceed tax liability.

Under present law, there also is a maximum exclusion from gross income of $100 a week ($5,200 a year) of disability income for taxpayers under age 65 who retired on disability, were permanently and totally disabled when then retired, and are permanently and totally disabled in the year in which the disability income is received. For this purpose, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. At age 65, taxpayers become ineligible for this exclusion but may be able to claim the credit for the elderly.

The maximum amount excludible under present law is reduced on a dollar-for-dollar basis by the taxpayer's adjusted gross income (including disability income) in excess of $15,000 (for both married and single taxpayers). Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion is allowable only if a joint return is filed. Thus, if a taxpayer receives $5,200 in disability income and $15,000 (or more) in other income that together equal $20,200 (or more), he or she is not entitled to any exclusion for disability payments.

The credit for the elderly initially was intended to provide compensation to those whose retirement benefits were fully taxable rather than consisting partially of tax-free social security benefits. However, your Committee's bill subjects social security benefits to income tax, so that the credit should be coordinated with the benefit taxation provision. Once social security benefits are subject to tax, favorable tax treatment for public retirees under age 65 should be limited to those permanently and totally disabled. For individuals age 65 or over, however, your Committee believes that the favorable tax treatment should be improved in recognition of the fact that taxation of benefits would not begin until relatively high income levels. As provided under the bill, the credit generally is not available to taxpayers whose incomes are sufficiently high that social security or tier I railroad retirement benefits are includible in income.

With respect to disability income, the provision coordinates and rationalizes the tax treatment of the disabled and elderly by providing the same relief to those in both groups who do not receive the advantage of tax-free social security disability or retirement benefits. Thus, the abrupt change in tax treatment which the disabled face at age 65 under present law would be eliminated. Although the revised credit will not be less generous than the present exclusion in the long run disabled taxpayers may benefit because the credit to which they had been required to switch at age 65 is improved.

In general, the bill retains present law for those age 65 or over. However, individuals under age 65 will be eligible for the credit only if they retired with a permanent and total disability and have disability income from a public or private employer on account of disability. The present law definition of permanently and totally disabled is retained. Disability income is the aggregate amount paid under an employer's accident and health plan or pension plan and includible in the gross income of the individual to the extent it constitutes wages (or payments in lieu of wages) for the period during which the individual is absent from work on account of permanent and total disability. Amounts excluded from gross income, for example, as the employee's after-tax contributions, will not be eligible for the credit. The disabled individuals eligible for the credit are generally the same individuals eligible for the disability income exclusion under present law.

The maximum base amount on which the credit is applied will be doubled, to $5,000 for a single individual or for a married couple with only one spouse eligible for the credit, $7,500 for a married couple with both spouses eligible for the credit, or $3,750 for a married couple filing separate returns. For individuals under age 65, the maximum base amount will be further limited to the amount of disability income.

The base amount will be reduced by one-half of the excess of adjusted gross income over $7,500 for an individual, $10,000 for a married couple filing a joint return, or $5,000 for a married couple filing separately, as under present law. In addition, the base amount is reduced by the amount of any pension, annuity, or disability benefit received under the Social Security Act or the Railroad Retirement Act and excluded from gross income, or with the same exceptions as those under present law, the amount of other pension, annuity or disability benefit that is excluded from gross income.

The disability income exclusion is repealed.

These amendments are effective for taxable years beginning after December 31, 1983.

Section 123. Acceleration of increases in FICA taxes; 1984 employee tax credit

Under present law, several increases in social security payroll tax (FICA) rates are already scheduled to take effect between 1985 and 1990, as shown in the following table:

Year	Employer-employee rate (each)		
	OASDI	HI	OASDI-HI
1984	5.4	1.30	6.70
1985	5.7	1.35	7.05
1986	5.7	1.45	7.15
1987	5.7	1.45	7.15
1988	5.7	1.45	7.15
1989	5.7	1.45	7.15
1990	6.2	1.45	7.65

In conjunction with other changes in the law which are designed to help insure the solvency of the OASDI Trust Funds, your Committee has found it necessary to advance the OASDI increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988 (HI rates are not changed):

Year	Employer-employee rate (each)		
	OASDI	HI	OASDI-HI
1984	5.70	1.30	7.00
1985	5.70	1.35	7.05
1986	5.70	1.45	7.15
1987	5.70	1.45	7.15
1988	6.06	1.45	7.51
1989	6.06	1.45	7.51
1990	6.20	1.45	7.65

Because railroad retirement (RR) payroll taxes are linked to the rates for social security, your Committee's bill also provides similar increases in the corresponding railroad retirement taxes.

In order to cushion the impact on workers of the 1984 increase, the bill provides employees a credit equal to 0.3 percent of compensation subject to the FICA and RR taxes and to payments of amounts equivalent to FICA taxes under section 218 of the Social Security Act. Because the credit is to be taken into account at the time the tax is collected (by deduction from the employees' wages or otherwise), the net OASDI employee tax rate for 1984 will be 5.40 percent. This is the rate employers may use in computing FICA tax due and in preparing annual statements of amount of tax withheld. However, as under present law, the appropriation of funds into, for example, the OASDI trust fund will be based on the gross OASDI employee tax rate, which will be 5.70 percent.

These provisions will apply to remuneration paid after December 31, 1983.

Section 124. Self-employment income tax and credit

The Self-Employment Contributions Act (SECA) imposes two taxes (OASDI and HI) on self-employed individuals. Self-employed persons pay an OASDI tax rate that is equal to approximately 75 percent of the combined employer-employee rate and an HI tax rate that is equal to 50 percent of the combined employer-employee rate.

The presently scheduled OASDI rates for self-employment income are as follows:

IN THE CASE OF A TAXABLE YEAR

Beginning after—	And before—	Percent
Dec. 31, 1981	Jan. 1, 1985	8.05
Dec. 31, 1984	Jan. 1, 1990	8.55
Dec. 31, 1989		9.30

The HI rates for self-employment income are as follows:

IN THE CASE OF A TAXABLE YEAR

Beginning after—	And before—	Percent
Dec. 31, 1980	Jan. 1, 1985	1.30
Dec. 31, 1984	Jan. 1, 1986	1.35
Dec. 31, 1985		1.45

Under present law, the expenses of compensation or purchased services, including wages, the employer FICA tax, and payments to self-employed individuals are deductible, for income tax purposes, as business expenses. However, neither the employee FICA tax nor the SECA tax is deductible.

Your Committee is concerned that, under the current system, social security benefits are provided to self-employed individuals for about 75 percent of the amount paid to provide employees with equivalent benefits and that medicare benefits are provided to self-employed individuals for 50 percent of the amount paid to provide employees with equivalent benefits. Thus, the present tax treatment of self-employed individuals accounts for a major portion of the financial difficulties of the social security system. Removal of the subsidy to self-employed individuals will alleviate these difficulties. Further, your Committee believes that removal of the subsidy will reduce the tax incentive to claim independent contractor status and will reduce employment status classification disputes with the Internal Revenue Service.

Under the bill, the OASDI tax rate on self-employment income will be equal to the combined employer-employee OASDI rate, and the HI tax rate on self-employment income will be equal to the combined employer-employee HI rate. In order to cushion the impact of the increase, your Committee's bill provides a permanent credit against SECA taxes and also allows the one-time 1984 tax credit to self-employed as well as to employees.

The OASDI tax rate on self-employment income will be:

IN THE CASE OF A TAXABLE YEAR

Beginning after—	And before—	Percent
Dec. 31, 1983	Jan. 1, 1988	11.40
Dec. 31, 1987	Jan. 1, 1990	12.12
Dec. 31, 1989		12.40

The HI tax rate for self-employment income will be:

IN THE CASE OF A TAXABLE YEAR

Beginning after—	And before—	Percent
Dec. 31, 1983	Jan. 1, 1985	2.60
Dec. 31, 1984	Jan. 1, 1986	2.70
Dec. 31, 1985		2.90

For 1984, self-employed individuals will be entitled to the same type of credit against SECA tax allowed employees against FICA tax. Thus, for 1984, self-employed individuals will be allowed a credit against SECA tax equal to .3 percent of self-employment income.

In addition, beginning in 1984, self-employed persons will be entitled to a permanent credit against SECA tax. For 1984–1987, the amount of this SECA tax credit will be 1.8 percent of self-employment income. For 1988 and subsequent years, the rate of the credit will be 1.9 percent. The SECA tax credits may be directly taken into account in computing SECA liability for a taxable year and estimated tax payments for that year.

The SECA tax credits will not reduce the revenues of the Social Security trust funds, since under the Social Security Act, appropriations into the trust funds will be based on the SECA tax rates specified above without regard to the credits allowed against such taxes.

The provision will be effective for taxable years beginning after December 31, 1983.

D. BENEFITS FOR CERTAIN SURVIVING, DIVORCED, AND DISABLED SPOUSES

Section 131. Benefits for surviving divorced spouses and disabled widows and widowers who remarry

Current law permits the continuation of benefits for surviving spouses who remarry after age 60. However, benefits for disabled or divorced disabled widow(er)s (payable from age 50 to 60) who remarry prior to age 60 have their benefits terminated unless the new marriage is to certain auxiliary beneficiaries. Marriage of a nondisabled divorced widow(er) (who can receive benefits at age 60) will cause termination of benefits at any age.

Your Committee's bill provides that the social security benefit of a disabled widow(er) or a divorced disabled widow(er) would not terminate if the beneficiary remarries before age 60. In addition, the benefits of a divorced widow(er) would not terminate if the beneficiary marries after attaining age 60.

This change would eliminate the penalty in current law for the spouse described who remarries after the age of first eligibility for benefits. Your Committee's provision eliminates the distinction now in the law between disabled or divorced disabled widow(er)s and divorced widow(er)s who are similarly situated except for age or whether their new spouse is a social security auxiliary beneficiary. No change would be made in the current dual-entitlement provision of the law which allows an individual to receive only the highest benefit for which such individual is eligible.

Section 132. Entitlement to divorced spouse's benefits before entitlement of insured individual to benefits; exemption of divorced spouse's benefits from deduction on account of work

Under current law, a divorced spouse cannot qualify for benefits based on the earnings of a former spouse until the former spouse has filed an application for benefits. Also, if the former spouse does become entitled to benefits, but continues to work, a divorced spouse may have some or all benefits withheld due to the former spouse's earnings.

Your Committee's bill would allow divorced spouses who have been divorced for at least two years to draw benefits at age 62 if the former spouse is eligible for retirement benefits, whether or not benefits have been claimed or suspended because of substantial employment. This provision is effective for benefits for months after December 1984 for those who file applications on or after January 1, 1985. As a matter of equity, beginning in 1985, the earnings of an individual receiving retirement benefits would no longer cause deductions in the benefits of those divorced spouses already on the benefit rolls.

This provision in your Committee's bill will be of particular benefit to divorced women who do not qualify for benefits on their own earnings and are unable to obtain benefits based on their former husband's earnings because those husbands are still working. The requirements that the divorce must have been in effect for at least 2 years is intended to discourage divorces solely for the purpose of avoiding the earnings test.

Section 133. Indexing of deferred surviving spouse's benefits to recent wage levels

Under current social security social security law, survivor benefits are based on the amount of survivor benefits that would have been payable to the deceased worker as determined by applying a benefit formula to the worker's earnings in covered employment. Such earnings are indexed to reflect economy-wide wage increases through the second year before the death of the worker. Beginning with the year of death, benefit levels are indexed to price changes.

Should the worker die long before his or her spouse can become eligible for surviving spouse's benefits (at age 60 or age 50 if disabled), the benefit may be based on outdated wages. Thus, the surviving spouse is deprived not only of their deceased spouse's unrealized earnings but also of the economy-wide wage increases that may have occurred since the death of the spouse.

Your Committee's bill provides for continuing to index the worker's earnings to reflect economy-wide wage increases up to the year the worker would have reached age 60, or two years before the survivor becomes eligible for aged or disabled widow(er)'s benefits, whichever is earlier. This provision will provide higher benefits for widow(er)s whose spouses died before age 62 and would assure that the widow(er)'s initial benefit reflected wage levels prevailing nearer the time she or he comes on the rolls. The provision is effective for monthly benefits after December 1984 for individuals who first meet all the criteria for entitlement (other than making application for the benefits) after December 1984.

Section 134. Limitation on benefit reduction for early retirement in case of disabled widows and widowers

Social security benefits for aged widows and widowers are first payable at age 60. Benefits are payable in full (i.e., 100 percent of the deceased worker's primary insurance amount) at age 65, and at reduced rates at ages 60-64 based on the number of months of entitlement before age 65. Benefits at age 60 equal 71.5 percent of the PIA.

Benefits are also payable to disabled widows and widowers from ages 50-59 at a rate equal to the aged widow(er)'s benefit at age 60 (71.5 percent of the PIA) and further reduced based on the number of months of entitlement before age 60. At age 50, the disabled widow(er)'s benefit equals 50 percent of the PIA.

Your Committee's bill would increase the benefits of disabled widow(er)s age 50-59 to 71.5 percent of the PIA, the amount to which widow(er)s are entitled at age 60. The increase in benefits would be effective January 1984 for newly entitled beneficiaries and for those already on the rolls as well.

The vulnerable condition of these beneficiaries is evidenced by the fact that the average benefit for all disabled widow(er)s in current-payment status in December 1982 was only $242 a month. At the end of 1981, almost 28 percent of those receiving disabled widow(er)'s benefits were also receiving supplemental security income payments. Your Committee's bill would thus help improve benefit adequacy for a group (of whom about 99 percent are women) who, by definition, are both widowed and unable to work and support themselves.

E. MECHANISMS TO ASSURE CONTINUED BENEFIT PAYMENTS IN ADVERSE CONDITIONS

At least since 1950, it has been the policy to keep trust fund revenues in each year approximately equal to expenditures. Under this policy, known as current-cost financing, current revenues are promptly paid out to current beneficiaries. If at any point revenues from contributions to the system exceed amounts needed for benefit payments, the excess is placed in the trust fund reserve. If revenues fall short of the amount needed for benefit payments, the reserves are drawn upon to make up the difference. If however, the reserves are not adequate to make up the shortfall, under current law the trust funds have no way of making benefit payments on a timely basis. (Thus, it is considered critical to have at least one month's benefit payments in reserve at the beginning of each month, and to have enough of a reserve to carry benefit payments through downturns in revenues during the year or during unfavorable economic periods.)

Your Committee shares the concern frequently expressed by advisory groups, and most recently by the National Commission on Social Security Reform, about the need to have procedures that would preserve the system's capacity to continued paying benefits on a timely basis even during unexpectedly adverse economic conditions. Thus, your Committee's bill includes an interrelated set of procedures—including interfund borrowing and the implementation of a revised accounting procedure for crediting the trust funds with revenue receipts on a more regularized basis—that would help to accomplish that purpose.

Section 141. Fixed monthly tax transfers

Your Committee's bill provides for a revision of accounting procedures under which the Treasury Department would credit to the OASDHI Trust Funds, at the beginning of each month, the amount of payroll tax revenues that is estimated to be received during the month. These amounts would be invested by the trust funds as all other trust fund assets are invested and an appropriate allocation made of the interest accrued on such investments.

Your Committee believes this procedure will help to alleviate potential cash flow problems by stabilizing monthly income to the OASDI trust funds prior to the point benefits are paid.

In paying interest to the general fund, the interest rate charged to the trust funds in any month shall be equal to the rate earned by the investments of the Trust Funds in the same month under section 303 of the Committee bill. Interest shall be calculated on a daily basis and apply to an amount equal to the amount transferred on the first of the month minus the amount which would have been transferred up to that day of the month under procedures in effect on January 1, 1983.

Section 152. Interfund borrowing extension

Under prior law (P.L. 97-123) interfund borrowing was allowed during 1982 between the OASI, DI and HI funds. Your Committee's bill would authorize continued interfund borrowing between these three trust funds for 1983-1987. However, provision must be made for repayment by the borrowing fund at the earliest feasible time and in no case later than the end of calendar year 1989. Borrowing also would be permitted only to the extent the lending fund had a sufficient balance to lend the money without jeopardizing its own ability to meet its obligations. Since your Committee continues to be concerned about the long-term condition of the HI fund, it is your Committee's intent that borrowing from the HI Fund should be undertaken with due regard for the fund's status and that any funds borrowered from the HI fund could be paid back when the HI fund would need them to maintain its own benefit payments.

Borrowing, as under the prior law, would be at the discretion of the Managing Trustee, who also would determine the time and amount of repayment, consistent with the above cautions and restrictions. Interest would be paid by the borrowing fund to the lending fund on any amounts loaned, as under prior law.

Your Committee notes that some $17.5 billion was borrowed by the OASI fund from the other funds ($5.1 billion from DI and $12.4 billion from HI) in November and December 1982 in order to ensure benefit payments through June 1983. P.L. 96-403 also reallocated $8.8 billion in incoming taxes away from the DI fund and into the OASI fund during 1980-82 ($4.1 billion in 1980, $4.4 billion in 1981, and $0.3 billion in 1982). These reallocations, combined with the interfund borrowing, dropped the DI reserves from 35 percent at the beginning of 1980 to 15 percent at the beginning of 1983. However, the DI fund reserves are still expected to increase over the long-term.

Section 143. Managing trustee report to the Congress concerning trust fund shortfalls

While the use of the fixed tax transfer accounting procedure and interfund borrowing will enable the Trustees to manage the cash flow within the trust funds to maximum advantage, your Committee remains concerned that safeguards be provided in the event the combined resources of the trust funds prove inadequate to pay timely benefits. It is further concerned that when trust fund reserves remain low for several years, a situation could arise fairly quickly where further action may be needed.

Your Committee's bill requires the Board of Trustees to report immediately to the Congress whenever it is of the opinion that the amount of any of the Trust Funds may become unduly small and recommend a specific legislative plan to adjust the inflow and outgo of funds to remedy this shortfall with due regard to the economic situation that created the problem and the amount of time available to act in a prudent manner. It is the intent of the Committee that such legislative action should be effective only so long as is necessary to restore the fund to solvency.

F. OTHER FINANCING AMENDMENTS

Section 151. Financing of noncontributory military wage base credits

Under current law gratuitous military wage credits are provided to persons who served in the military after September 16, 1940. Although members of the armed forces were compulsorily covered under social security in 1957, wage credits continue to be provided to military personnel in recognition of the value of non-cash compensation received.

The cost of the additional benefits and the administrative expenses arising from these noncontributory wage credits are borne by the General Fund on a retroactive reimbursement basis (i.e., the costs are reimbursed only after benefits have been paid).

Your Committee is concerned that since only the marginal cost of benefits which result from the inclusion of gratuitous wage credit is reimbursed and that this is done on a retroactive basis, the Treasury receives a "bargain" as compared with other employers. This is because the weighted benefit formula under OASDI produces relatively less additional benefit cost for those last marginal dollars of earnings than for the first dollars of earnings. In essence, then, not only does the Treasury pay the cost of providing these social security credits later than does any other employer, it also pays less, on the average, for each dollar of earnings.

As a result of these concerns, your Committee bill provides that a lump-sum payment will be made to the OASDI Trust Funds from the General Fund of the Treasury for: (i) The present value of the estimated additional benefits arising from the gratuitous military service wage credits for service before 1957; (ii) the amounts of the combined employer-employee OASDI taxes on the gratuitous military service wage credits for service after 1956 and before 1983; and in addition, (iii) the HI Trust Fund will be credited with the combined employer-employee HI taxes or gratuitous wage credits for services rendered after 1965 and before 1983. (In the future, the OASDHI Trust Funds would be reimbursed on a current basis for such employer-employee taxes on such wage credits for service after 1983).

Section 152. Accounting for certain unnegotiated checks for benefits under the social security program

Under current law the Social Security Administration certifies to the Department of Treasury the amount of benefits to be paid to social security beneficiaries. Subsequently, Treasury transfers that amount from the social security trust funds to a Treasury transfer account. Treasury then mails the beneficiaries their checks.

However, some of these checks are never negotiated. Social security checks remain unnegotiated for various reasons. For example, some benficiaries may "save" their social security checks, rather than cash them or deposit them in banks; also some checks may be lost in the mail or be stolen and not be reported, because the beneficiary did know that the check was coming, and still other checks go to the deceased persons and are held by a survivor and not cashed or returned.

Social security benefit checks, as well as most other government checks, are not issued by Treasury under special program symbols. Therefore, Treasury is not able to readily identify what portion of government-wide uncashed checks are social security benefit payments. The Treasury is authorized neither to cancel uncashed government checks nor to credit the value of those checks to the accounts upon which they were drawn. As a result, the trust funds are not credited for any uncashed OASDI benefit checks. Instead, the value of benefit checks which are not cashed remains in the General Fund of the Treasury.

In order to recover this lost revenue to the OASDI Trust Funds, your Committee's bill provides for a lump-sum payment to the OASDI Trust Funds from the General Revenue representing the amount of uncashed benefit checks which have been issued in the past. In addition, your Committee's bill requires the implementation of a procedure under which: (1) the Treasury Department would make it possible to distinguish OASDI checks from other government checks; and (2) the trust funds would be credited on a regular basis with an amount equal to the value of all OASDI benefit checks which have not been negotiated for a period of 6 months. Checks which are older than 6 months will still be negotiable.

2. SECTION-BY-SECTION EXPLANATION OF TITLE I

Section 101. Coverage of newly hired federal employees

Section 101(a) of the bill provides Social Security coverage for Federal employees hired on or after January 1, 1984 and for certain current Federal employees including the President, Vice President, appointed Federal officials, Federal judges, members of Congress and legislative employees who are not covered under a federal retirement system.

Section 101(a)(1) of the bill replaces paragraphs (5) and (6) of section 210(a) of the Social Security Act with new paragraphs (5) and (6). (The present paragraphs (5) and (6) generally exclude from the definition of Social Security covered employment civilian service performed in the employ of the United States or an instrumentality of the United States.)

The new paragraph (5) of section 210(a) of the Act continues the exclusions from Social Security coverage provided under the present paragraphs (5) and (6) for employees of the United States or any instrumentality of the United States who have been continuously so employed since December 31, 1983 and for annuitants of a Federal retirement system. An individual who returns to service in the employ of the United States or an instrumentality of the United States after a separation from such service of not more than 365 consecutive days is nevertheless considered "continuously" employed for purposes of this section.

The new paragraph (5) does not apply to service: (1) as President or Vice President of the United States, (2) in a position established under sections 5312 through 5317 of title 5, United States Code, as a noncareer appointee of the Senior Executive Service or a noncareer member of the Senior Foreign Service, or in a position to which the individual is appointed by the President or Vice President under sections 105(a)(1), 106(a)(1), or 107(a)(1) or (b)(1) of title 3, United States Code, if the position's basic pay is at or above the rate for level V of the Executive Schedule; (3) as a member of the Supreme Court, United States Court of Appeals, United States District Court (including the district court of a territory), United States Claims Court, United States Court of International Trade, United States Tax Court, or as United States magistrate, referee in bankruptcy, or United States bankruptcy judge; (4) as a Member, Delegate, or Resident Commissioner of or to the Congress; or (5) as an employee of the legislative branch who is not covered under the Civil Service Retirement System as of January 1, 1984. The effect of not applying paragraph (5) to such service is that such service is covered under Social Security beginning January 1, 1984.

The new paragraph (6) provides that service performed: (1) by inmates in Federal penal institutions, (2) in Federal hospitals by certain interns, student nurses and other student employees, and (3) by individuals employed on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency continues to be excluded from Social Security as it is under present law.

Section 101(a)(2) of the bill amends section 210(p) of the Act, relating to Medicare qualified Federal employment, to conform to the amendment made to section 210(a) of the Act by section 101(a)(1) of the bill.

Section 101(b) of the bill amends section 3121 of the Internal Revenue Code of 1954 to conform to the amendments made by section 101(a) of the bill.

Section 101(b)(1) of the bill amends section 3121(b) of the Code to conform to the amendment made to section 210(a) of the Act by section 101(a)(1) of the bill.

Section 101(b)(2) of the bill amends section 3121(u)(1) of the Code to conform to the amendment made to section 210(p) of the Act by section 101(a)(2) of the bill.

Section 101(c)(1) of the bill amends section 209 of the Act by adding a new paragraph at the end thereof which provides that payments made to retired justices or judges under the provisions of section 371(b) of title 28, United States Code, for periods during which they render services under the provisions of section 294 of title 28, United States Code, are included as wages for Social Security taxation purposes.

Section 101(c)(2) of the bill amends section 3121(i) of the Internal Revene Code of 1954 by adding a new paragraph (5), which provides that the payments made to retired justices or judges under the provisions of section 371(b) of title 28, United States Code, for periods during which they render services under the provisions of section 294 of title 28, United States Code, are included as wages for Social Security taxation purposes.

Section 101(d) of the bill provides that the amendments made by section 101 of the bill apply with respect to remuneration paid after December 31, 1983.

Section 102. Coverage of employees of nonprofit organizations

Section 102(a) of the bill provides compulsory coverage of remuneration for services performed by current and future employees of nonprofit organizations.

Sections 102(a)(1) and 102(a)(2) of the bill make changes in section 210(a)(8) of the Social Security Act to conform it to the amendment made by section 102(a)(3).

Section 102(a)(3) of the bill amends section 210(a)(8) of the Act by deleting subparagraph (B), thus eliminating the exclusion from the definition of "employment" for Social Security benefit purposes services performed in the employ of tax-exempt nonprofit organizations described in section 501(c)(3) of the Internal Revenue Code of 1954.

Section 102(b) of the bill amends section 3121 of the Code to provide compulsory Social Security taxation of remuneration for services performed in the employ of such nonprofit organizations.

Sections 102(b)(1)(A) and 102(b)(1)(B) of the bill make changes in section 3121(b)(8) of the Code to conform it to the amendment made by section 102(b)(1)(C) of the bill.

Section 102(b)(1)(C) of the bill amends section 3121(b)(8) of the Code by deleting subparagraph (B), to conform to the amendment made by section 102(a)(3) of the bill.

Section 102(b)(2) of the bill repeals section 3121(k) of the Code which permits a tax-exempt nonprofit organization to provide Social Security coverage for its employees by filing a waiver with the Secretary of the Treasury, provides that a waiver will be deemed to have been filed under certain circumstances, and permits such an organization to terminate coverage for its employees.

Section 102(b)(3) of the bill amends section 3121(r) to repeal paragraph (4), which requires religious orders which elect Social Security coverage for their members also to elect Social Security coverage for their lay employees, and to make conforming changes in references to sections 210(a)(8) of the Act and 3121(b)(8) of the Code.

Section 102(c) of the bill provides that the amendemts made by subsections (a) and (b) shall apply to service performed after December 31, 1983. However, the amendments do not affect section 2 of P.L. 94-563 (which provides that no refund or credit of taxes shall be made to a nonprofit organization that is deemed to have filed a waiver to provide Social Security coverage for its employees) or section 3 of P.L. 94-563 and section 312(c) of P.L. 96-216 (which permit an employee of a nonprofit organization that is deemed to have filed a waiver to receive credit for past services if he pays the Social Security employee tax on his wages).

Section 102(d) of the bill provides that if a nonprofit organization has filed a waiver certificate under which Social Security coverage has been extended to its employees, the period for which the certificate is in effect may not be terminated on or after enactment.

Section 102(e) of the bill provides a rule for deeming to be fully insured for Social Security purposes persons who, on January 1, 1984, are at least age 55 and employed by a nonprofit organization to those employees coverage is extended solely as a result of this section.

Section 102(e)(1)(A) of the bill provides that the deeming provision applies to individuals who, on January 1, 1984, are age 55 or over and employees of a nonprofit organization to those employees coverage is extended solely as a result of this section.

Section 102(e)(1)(B) of the bill provides that, for purposes of the deeming provision, the quarters of coverage (required under section 102(e)(2)) must be acquired after January 1, 1984.

Section 102(e)(2) of the bill provides that the number of quarters of coverage needed to be deemed to be fully insured is to be determined based on the following table:

The Number of Quarters of Coverage so Required

In the case of an individual who on Jan. 1, 1984, is—	
Age 60 or over	6
Age 59 or over but less than age 60	8
Age 58 or over but less than age 59	12
Age 57 or over but less than age 58	16
Age 55 or over but less than age 57	20

Section 102(f) of the bill amends section 1886(b) of the Act by deleting paragraph (6), which provides for the reduction of Medicare payments to hospitals for inpatiant hospital services in the case of certain hospitals which terminate Social Security coverage of their employees. Subsection (f) is effective for cost reporting periods beginning on or after October 1, 1982.

Section 103. Duration of agreements for coverage for State and local employees

Section 103(a) of the bill replaces section 218(g) of the Social Security Act, which permits States to terminate Social Security coverage for groups of State and local employees and prevents terminated groups from becoming covered again, with a new section 218(g). Under the new section 218(g), Social Security coverage provided under a State's agreement with the Secretary may not be terminated, and previously terminated groups are permitted to again be covered under Social Security.

Section 103(b) provides that the new section 218(g) applies to all current and future coverage agreements (or modifications of agreements) between the States and the Secretary. It also provides that the new section 218(g) shall apply without regard to whether a notice of intent to terminate coverage has been filed by a State with respect to any group of State of local employees.

Section 111. Shift cost of living adjustments to calendar year basis

Section 111 of the bill amends section 215(i) of the Social Security Act to provide that after 1982, the automatic cost-of-living adjustments (COLA) provided for in this section shall be made on a calendar year basis (making the increase effective for December payable in January, rather than effective for June payable in July of each year) and that for COLAs effective after 1983, the period for measuring the increase in the Consumer Price Index (CPI) shall be shifted from a first-quarter to first-quarter measure to a third-quarter to third-quarter measure.

Section 111(a)(1) of the bill amends section 215(i)(1)(A) of the Act to provide that for years after 1982 a base quarter for measuring an automatic increase in the CPI will end with the calendar quarter ending on September 30, rather than March 31.

Section 111(a)(2) of the bill amends section 215(i)(2)(A)(ii) of the Act to change the effective date of an automatic cost-of-living benefit increase from June to December of any year in which the Secretary determines a cost-of-living adjustment is required.

Section 111(a)(3) of the bill makes a conforming effective date amendment in section 215(i)(2)(A)(iii) of the Act, which provides that automatic increases in a year are applicable to primary insurance amounts computed or recomputed in that year regardless of when entitlement began in that year, to conform with section 111(a)(2) of the bill.

Section 111(a)(4) of the bill section 215(i)(2)(B) of the Act to conform with the effective month provided in section 111(a)(2) of the bill.

Section 111(b)(1) of the bill amends section 215(i)(4) of the Act, which requires the Secretary, after a COLA has been determined, to publish in the Federal Register revisions of the table of benefits under the law in effect in December 1978, to provide that such tables will be revised as required by section 111(a)(2) of the bill.

Section 111(b)(2) of the bill amends section 215(i) of the Act as in effect in December 1978 (provisions affecting those not covered by wage indexing) and as applied in certain cases after 1978 (cases computed under transitional provisions) to conform with the third quarter measuring period and the December effective date provisions of sections 111(a)(1) and 111(a)(2) of of the bill.

Section 111(c) of the bill amends sections 203(f)(8)(A), the automatic adjustment of the retirement test, 230(a), the automatic adjustment of the contribution and benefit base, and 202(m), the sole survivor minimum benefit provision (as it applies in certain cases by reason of section 2 of P.L. 97-123 relating to the minimum benefit for those eligible before 1982) to conform with the provisions of section 111(a)(2) of the bill.

Section 111(d) of the bill provides that the amendments made by this section will apply to cost-of-living adjustments for years after 1982; except that the change in the period for measuring the increase in the CPI made by subsections (a)(1) and (b)(2)(A) will apply only to cost-of-living adjustments for years after 1983.

Section 111(e) of the bill provides that, notwithstanding any other provision in section 215(i) of the Act, the base quarter in 1983 will be a cost-of-living computation quarter even if the CPI has not increased by at least 3 percent since the last prior cost-of-living computation quarter. This amendment would ensure that a benefit increase would be payable effective December 1983.

Section 112. Cost-of-living increases to be based on either wages or prices (whichever is lower) when balance in OASDI trust funds falls below specified level

Section 112 of the bill provides that, beginning in 1988, in any year when the ratio of the combined OASDI trust funds balance to estimated outgo is less than 20 percent, the automatic cost-of-living increase for that year will be based on the lower of the increase in prices or the increase in wages. The section also provides that, when the combined OASDI trust fund ratio reaches 32 percent, a catchup benefit increase will be made to take account of prior increases that were based on less than the increase in prices.

Section 112(a) of the bill amends section 215(i)(1)(B) of the Social Security Act by changing the definition of a cost-of-living computation quarter to take account of the possibility of benefit increases based on wages. The new provision specifies that a cost-of-living computation quarter will be a quarter in which the "applicable increase percentage" (defined in a new subparagraph (C)) is 3 percent or more.

Section 112(a) of the bill also redesignates subparagraph (C) as subparagraph (H) and adds five new subparagraphs to section 215(i)(1) of the Act:

New subparagraph (C) defines applicable increase percentage as the lower of the CPI increase percentage or the wage increase percentage for any year after 1987 when the combined OASDI trust fund ratio is less than 20 percent and as the Consumer Price Index (CPI) increase percentage for any other year.

New subparagraph (D) defines the CPI increase percentage as the percentage (rounded to the nearest tenth) by which the CPI for the current base quarter (or cost-of-living computation quarter) exceeds that index for the most recent prior quarter which was a cost-of-living computation quarter (or was a base quarter in a year when a general benefit increase was paid).

New subparagraph (E) defines wage increase percentage as the percentage (rounded to the nearest tenth) by which the SSA average wage index for the year preceding the current year exceeds that index for the year preceding the most recent prior year which included a cost-of-living computation quarter (or was a year in which a general benefit increase was paid).

New subparagraph (F) defines OASDI fund ratio for a calendar year as the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loans (including interest) made to either fund from the Federal Hospital Insurance Trust Fund, at the beginning of that calendar year to the total amount which will be paid from such funds during that year, excluding repayment of (and interest on) loans from the Federal Hospital Insurance Trust Fund and transfer payments between those funds, and reducing any transfers to the Railroad Retirement Account by the amount of any transfers into those funds from that account.

New subparagraph (G) defines SSA average wage index as the average of the total wages reported to the Secretary of the Treasury for the preceding calandar year as determined for purposes of indexing earnings under section 215(b) of the Act.

Section 112(b) of the bill amends section 215(i)(2)(A)(ii) of the Act so that the percentage increase determined under the preceding section will be applied when determining the amount of the automatic benefit increase.

Section 112(c) of the bill amends section 215(i) of the act by adding a new paragraph (5), which provides for an additional percentage increase in certain years. An additional percentage increase will be determined when the OASDI fund ratio is over 32 percent and a prior automatic benefit increase had been paid under section 215(i) based on the wage increase percentage rather than the CP increase percentage or no increase had been paid because the wage increase percentage was less than 3 percent. The additional percentage increase is defined as the difference between the compounded benefit increases that would have been paid if all increases had been based on the CPI increase percentage and the compounded percentage increases that were actually paid. Such increases will be measured over the period beginning with the calendar year in which the worker initially became eligible for an old-age or disability insurance benefit, or died before becoming so eligible, and ending with the year in which the increase is due. (In the case of benefits under sections 227 and 228, however, the period begins with the year the person first became entitled to such benefits.) The Secretary will reduce the amount of the additional percentage increase, if necessary, to assure that the fund ratio will remain at or above 32 percent through the end of the following year. Any additional percentage increase that is paid will be treated as part of the regular cost-of-living increase for that year.

Section 112(d)(1) of the bill amends section 215(i)(2)(C) of the Act by adding a new clause (iii), which provides that the Secretary must determine and promulgate the OASDI fund ratio and the SSA wage index by November 1 of each year and include those amounts in any notification made under clause (i) and any determination published under subparagraph (D).

Section 112(d)(2) of the bill amends section 215(i)(4) of the Act by providing that the new method of determining the percentage increase will apply to benefit amounts determined under this subsection as in effect in December 1978.

Section 112(e) of the bill provides that the amendments made by this section apply to monthly benefits for months after December 1987.

Section 112(f) of the bill provides a special method for determining the OASDI fund ratio for calendar year 1988. The OASDI trust fund balance used in determining the OASDI fund ratio for that year will be the estimated combined balance of the funds at the close of that year, rather than at the beginning.

Section 113. Elimination of windfall benefits for individuals receiving pensions from noncovered employment

Section 113 of the bill changes the benefit formula used in computing a worker's old-age or disability insurance benefits if the worker receives an annuity based in whole, or in part, on noncovered employment.

Section 113(a) of the bill amends section 215(a) of the Social Security Act by adding a new paragraph (7), which provides, in subparagraph (A), that an individual's primary insurance amount (PIA) will be computed under the special rules set out in subparagraph (B) if (1) the worker's PIA would be computed under paragraph (1) of section 215(a)—that is, under the wage indexing or special minimum PIA provisions, (2) the worker attains age 62 or becomes disabled after 1985 and (3) that worker is entitled to a periodic annuity based in whole, or in part, on noncovered employment. This special PIA, which will be computed with respect to the initial month the worker becomes eligible for Social Security benefits, will only apply during the worker's concurrent entitlement to such periodic annuity and to either old-age or disability insurance benefits. There is an exception that precludes an individual's PIA from being computed under this paragraph if he receives a periodic annuity based in part on Federal employment before 1971 that was covered under Social Security.

Subparagraph (B) of the new paragraph (7) provides that the PIA in the cases set out in subparagraph (A) will first be computed under the preceding paragraphs of section 215(a) of the Act, except that a factor of 61 percent will apply to the lowest band of AIME in the benefit formula (rather than 90 percent). There will be a guarantee, which will help workers with relatively low periodic annuities, that the reduction will not exceed one-half of the periodic annuity. This alternative guarantee PIA equals the PIA that would be computed under section 215(a) of the Act as though the individual did not receive an annuity based on noncovered employment, reduced by 50 percent of the annuity. For these purposes, the amount of the annuity is the amount payable to the individual when he first becomes eligible for Social Security benefits, regardless of the amount of the annuity he actually receives at entitlement or thereafter. Also, the amount of the annuity will be that portion of the annuity attributable to noncovered service, with such attribution being based on the proportionate number of years of noncovered service. If the PIA is computed under these special provisions, it will be deemed to be computed under paragraph (1) of section 215(a) of the Act for purposes of applying other provisions of title II of the Act.

Subparagraph (C) of the new paragraph (7) contains rules for dealing with a range of special cases of annuities based on noncovered employment. Clause (i) of the new subsection (a)(7)(C) states that if the annuity is paid other than monthly, it will be allocated on a monthly basis for purposes of the previously described PIA computation.

Clause (ii) of the new subsection (a)(7)(C) states that if the beneficiary has elected a reduced annuity so as to provide for his survivors, the amount used in the PIA computation will be that of the unreduced annuity.

Clause (iii) of the new subsection (a)(7)(C) states that if eligibility for the annuity begins in a month subsequent to the month in which the worker becomes eligible for old-age or disability insurance benefits, his PIA will be computed using the amount of the annuity for the first month in which it could become payable.

Clause (iv) of the new subsection (a)(7)(C) states that, for purposes of paragraph (7), the definition of periodic annuity includes a lump sum payment if it is a commutation of, or substitute for, a periodic annuity.

Section 113(b) of the bill amends section 215(d) of the Act by adding a new paragraph (5) that provides special PIA computation rules for a worker who meets the criteria set out in the new paragraph (7)(A) of section 215(a) of the Act, except that his PIA is not computed under paragraph (1) of section 215(a) by reason of paragraph (4)(B)(ii)—that is, he had substantial earnings before 1950 and qualifies for an "old-start" computation under the 1939 Social Security Act provisions, as amended. The PIA in such cases will equal the old-start PIA computed under section 215(d) of the Act as though the worker did not receive an annuity based on noncovered employment, reduced by the smaller of: (1) one-half of the old-start PIA or (2) one-half of the periodic annuity. In determining the amount of the annuity for this purpose, the same rules apply as in the new section 215(a)(7)(B) of the Act. The exception provided in the new section 215(a)(7)(A) also applies.

Section 113(c) of the bill amends section 215(f) of the Act by adding a new paragraph (9), which provides, in subparagraph (A), that if the worker becomes entitled to a periodic annuity based on noncovered employment in a month subsequent to his entitlement to old-age or disability insurance benefits, then that benefit will be recomputed effective with the first month of concurrent entitlement to that Social Security benefit and the periodic annuity.

Subparagraph (B) of the new section 215(f)(9) provides that if a PIA is increased because of the additional earnings of an old-age or disability insurance beneficiary, the increase is to be computed as though the individual were not entitled to an annuity from noncovered employment. That is, he will receive the full benefit of the increase. Also, if the individual dies, the PIA will be recomputed without regard to the annuity, so that his survivors will receive survivor benefits that are not reduced because of the annuity.

Section 113(d) of the bill provides conforming changes to sections 202(e)(2) and 202(f)(3) of the Act to include references to the new section 215(f)(9)(B) of the Act.

Section 114. Increase in old-age insurance benefit amounts on account of delayed retirement

Section 114 of the bill would gradually increase the delayed retirement credit (DRC), which is payable to workers who delay retirement past age 65 and up to age 70 [a], from 3 percent per year for workers age 65 in 1989 to 8 percent per year for workers age 65 after 2007.

Section 114(a) of the bill amends section 202(w)(1)(A) of the Social Security Act to replace the present language, which specifies the amount by which an old-age benefit is increased for certain groups of workers who delay retirement, with language that specifies that this amount now will be determined under the new paragraph (6).

Section 114(b) of the bill further amends section 202(w) of the Act by adding a new paragraph (6), which specifies that the amount by which an old-age benefit will be increased for each month of delayed retirement is (1) one-twelfth of 1 percent for workers who become eligible for monthly benefits before 1979, the same as under present law, (2) one-fourth of 1 percent for workers who become eligible after 1978 and before 1987, and (3) a percentage gradually increasing by one-twenty-fourth of 1 percent every other year so that it rises from seven-twenty-fourths of 1 percent for workers who become eligible in 1987 to two-thirds of 1 percent for workers who become eligible after 2004.

Section 121. Taxation of social security and railroad benefits

Section 121 of the bill provides for assessing income taxes in certain cases on monthly benefits under title II of the Social Security Act and on tier 1 monthly benefits under the Railroad Retirement Act. Benefits shall be included in taxable income for taxpayers, whose adjusted gross income (under current law) combined with one-half of their Social Security or tier 1 railroad benefits exceeds $25,000 for a single taxpayer, $32,000 for a married couple filing jointly or $0 for a married couple filing separately. In such cases, this section provides that taxable income shall be the lesser of one-half of (1) the designated benefits or (2) the amount by which adjusted gross income (under current Internal Revenue Code) plus one-half of the benefits exceeds specified base amounts. This section also contains special rules to provide for treatment of overpayments and retroactive payments. In addition, this section requires that: beneficiaries and the IRS be provided annual statements of benefit payments; half of benefits received by nonresident aliens be subject to income taxes and that such taxes be withheld from benefits payable; and benefits subject to taxation include the portion of any workmen's compensation payments that serve to reduce a taxpayer's Social Security benefits.

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[a] Section 333 of the bill reduces the age beyond which no DRC's can be earned from 72 to 70.

General rule

Section 121(a) of the bill amends part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 by redesignating section 86 as section 87 and inserting a new section 86 to provide for the inclusion of a part of Social Security benefits in gross income for income tax purposes.

The new sections 86(a) and 86(b) of the Code as amended provide that gross income for a taxable year includes the lesser of one-half of Social Security benefits received or one-half of the amount by which the sum of adjusted gross income (under current law) plus one-half of Social Security benefits exceeds the base amounts specified in subsection (c).

Section 86(c) provides that the base amount shall be $25,000 for a single individual, $32,000 for a couple filing jointly, and zero for a married taxpayer who does not file a joint return and who does not live apart from his spouse throughout the taxable year.

Section 86(d) defines the term "Social Security benefit," provides special rules for treatment of overpayment refunds and makes provisions to take account of Social Security benefit reductions due to the receipt of workmen's compensation benefits.

Paragraph (1) of the new section 86(d) defines the term "Social Security benefit" as any amounts received by reason of entitlement to (A) monthly benefits under title II of the Social Security Act and (B) tier 1 railroad benefits.

Paragraph (2) of the new section 86(d) provides the amount of benefits received for a taxable year shall be reduced by the amount of any repayment by the taxpayer of benefits previously received. The paragraph further provides that any tax reduction allowable under section 165 of the Code for repayment of benefits shall be limited to the amount by which any repayment of benefits previously received exceeds the amount of benefits received during the taxable year.

Paragraph (3) of the new section 86(d) provides that the term "Social Security benefit" shall include workmen's compensation benefits to the extent such benefits cause a reduction in Social Security benefits in the taxable year.

Paragraph (4) defines the term "tier 1 railroad benefit" as a monthly benefit under section 3(a), 4(a) or 4(f) of the Railroad Retirement Act of 1974 (determined by taking into account sections 204(a)(1), 206(1) and 207(1) of Public Law 93-445).

Subsection (e) of the new section 86 provides a limitation on the amount of Social Security benefits includable in taxable income for any tax year in which a taxpayer receives a lump-sum payment of benefits, any part of which is attributable to prior taxable years. This subsection also defines the taxable year to which a Social Security benefit is attributable, authorizes the Secretary of the Treasury to establish the time and manner by which a taxpayer may elect to attribute lump-sum payment to prior tax years and provides restrictions on the revocation by a taxpayer of an election to determine taxable income as provided under this subsection.

Paragraph 1 of the new subsection (e) provides that (A) if any portion of a lump-sum payment of Social Security benefits received during a taxable year is attributable to prior taxable years and (B) the taxpayer makes an election under the new subsection (e), then the amount of such portion includable in gross income for such taxable year shall not exceed the sum of the increases in gross income, if any, for such prior taxable years that would result from taking such portion into account in the taxable years to which it is attributable.

Paragraph (2)(A) of the new subsection (e) provides that a Social Security benefit shall be attributable to the taxable year in which the generally applicable payment date for such benefit occurred. Paragraph (2)(B) authorizes the Secretary of the Treasury to prescribe by regulations the time and manner for making an election under the new subsection (e)(1) and further provides that an election made under this subsection may be revoked only with the consent of the Secretary of the Treasury.

The new section 86(f) of the Code provides that Social Security benefits shall be treated as pensions and annuities for purposes of sections 43(c)(2), 219(f)(1), 221(b)(2), and 911(b)(1) of the Internal Revenue Code. These sections deal respectively with earned income tax credit for low income workers, retirement savings contributions, deductions for two-earner married couples, and exclusion of foreign earned income.

Information reporting

Section 121(b) of the bill amends subpart B of part II of subchapter A of chapter 6 of the Internal Revenue Code to include a new section, designated section 6050F, to provide that appropriate Federal officials issue annual reports to the Secretary of the Treasury and to all Social Security beneficiaries and Railroad Retirement annuitants setting forth [illegible] amount of benefits paid each such beneficiary in the calen[illegible] the amount of any benefits repaid by the individual dur[illegible]r, and the amount of reduction in any Social Security [illegible] account of workmen's compensation benefits.

The new section 6050F(a) of [illegible] requires the appropriate Federal official to make a rep[illegible] Secretary of the Treasury showing the aggregate amount of benefits paid to any individual during the calendar year [illegible]he aggregate amount of benefits repaid by such individual during such calendar year, the amount of reductions incurred by such individual due to reductions in Social Security benefits on account of workmen's compensation, and the name and address of the beneficiary.

The new section 6050F(b) of the Code requires the reporting official to furnish by January 31 of each year, to each individual whose name is set forth in any report under subsection (a), a written statement showing the name of the agency making the payments and the aggregate amount of benefit payments, and any repayments and reductions with respect to the individual during the prior calendar year.

The new section 6050(c) defines "appropriate Federal official" as the Secretary of Health and Human Services in the case of monthly benefit payments under title II of the Social Security Act and as the Railroad Retirement Board in the case of monthly benefit payments under the Railroad Retirement Act of 1974. The subsection also provides that for purposes of section 6050F of the Code, the term "Social Security benefit" has the meaning given it by section 86(d)(1) of the Code as amended.

Treatment of nonresident aliens

Section 121(c) of the bill amends the Internal Revenue Code to provide for the taxation of Social Security benefits paid to nonresident aliens, for the withholding of income taxes from Social Security benefits paid to nonresident aliens and for disclosure by the Internal Revenue Service to the Social Security Administration and the Railroad Retirement Board of the name, address, citizenship and resident status of any individual for the purpose of administering this subsection.

Paragraph 1 of section 121(c) amends section 871(a) of the Code by adding a new paragraph to provide that, for nonresident aliens, one-half of Social Security benefits, as defined in section 86(d), be included in gross income, but that section 86 shall not otherwise apply.

Paragraph (2) of section 121(c) amends section 1441 of the Code by adding a new subsection to provide, with respect to the withholding of tax on nonresident aliens, a cross reference to section 871(a)(3) of such Code.

Paragraph (3) of section 121(c) amends section 6103(h) of the Code by adding a new paragraph to authorize the Secretary of the Treasury, upon written request, to disclose information from the master files of the Internal Revenue Service concerning the address, the resident status and the citizenship of an individual to the Social Security Administration and the Railroad Retirement Board for purposes of carrying out the withholding provisions of section 121(c)(1) of the bill. This paragraph also makes a conforming amendment to paragraph (4) of section 6103(p) of the Code.

Social Security benefits treated as United States source

Section 121(d) of the bill amends section 86(a) of the IRC by adding a new paragraph to provide that Social Security benefits, as defined in section 86(d), be treated as income from sources within the United States.

Transfer to trust funds

Section 121(e) of the bill provides for determining tax liability attributable to this section, appropriating estimated tax liability to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund and the Railroad Retirement Account and issuing reports with respect to the operation of this section.

Paragraph (1) of section 121(e) of the bill provides that there shall be appropriated to each payor fund amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Code which is attributable to the application of sections 86 and 87(a)(3) of such Code (as amended by the bill) to payments from such payor fund.

Paragraph (2) of section 121(e) of the bill provides that amounts appropriated to each payor fund shall be transferred at least once a quarter based on estimates of the amounts referred to in paragraph (1) and that any such quarterly payment shall be made on the first day of such quarter and shall take into account taxes attributable to Social Security benefits estimated to be received during such quarter. This paragraph also provides that proper adjustments are to be made in the transferred amounts to the extent prior estimates were greater or less than the amounts required to be transferred.

Paragraph (3) of section 121(e) of the bill defines the term "payor fund" as any trust fund or account from which payments of Social Security benefits are made and defines "Social Security benefits" as having the same meaning as in section 86(d)(1) of the Code as amended by the bill.

Paragraph (4) of section 121(e) of the bill requires the Secretary of the Treasury to submit annual reports to the Congress, the Secretary of Health and Human Services and the Railroad Retirement Board showing the transfers made to each fund during the year, the methodology used in determining the amounts transferred and the anticipated operation of this subsection during the next 5 years.

Technical amendments

Section 121(f)(1) amends section 85(a) of the Code to provide that Social Security benefits be excluded from adjusted gross income for purposes of calculating the amount of unemployment benefits to be included in taxable income.

Section 121(f)(2) makes a conforming amendment to subsection (B) of section 128(c)(3) of the Code (as in effect for taxable years beginning after December 31, 1984), concerning depository institution tax-exempt savings certificates.

Paragraphs (3) and (4) of section 121(f) amend the tables of sections for part II of subchapter B of chapter 1 and for subpart B of part III of subchapter A of chapter 61 of the Code to take account of redesignated and new sections.

Effective dates

Paragraph (1) of section 121(g) provides that, except as provided in paragraph (2), the amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date.

Paragraph (2) section 121(g) provides that the amendments made by this section shall not apply to any portion of a lump-sum payment of Social Security benefits received after December 31, 1983, if the generally applicable payment date for such portion was before January 1, 1984.

Section 122. Credit for the elderly and the permanently and totally disabled

Section 122 of the bill amends section 37 of the Internal Revenue Code and repeals Code section 105(d). Section 122(a) amends section 37 to provide an income tax credit for the elderly and permanently and totally disabled.

Section 37(a) provides a general rule that a qualified individual shall be allowed as a credit against the tax imposed by Chapter 1 of the Internal Revenue Code for the taxable year an amount equal to

15 percent of the individual's "section 37 amount" (base amount) for the taxable year.

Section 37(b) defines qualified individual to mean any individual who (1) has attained age 65 before the close of the taxable year or (2) who has retired on disability before the close of the taxable year and who, when he retired, was permanently and totally disabled.

Section 37(c) provides that an individual's section 37 amount will be an initial amount of $5,000 in the case of a single individual or a joint return where only one spouse is a qualifed individual, $7,500 in the case of a joint return where both spouses are qualified individuals, or $3,750 in the case of a married individual filing a separate return. In the case of a qualified individual who has not reached age 65 before the close of the taxable year, the initial amount generally cannot exceed the disability income for the taxable year. The limitation to disability income is modified in the case of a joint return where both spouses are qualified individuals and at least one spouse has not reached age 65 at the close of the taxable year. If both spouses have not reached age 65 before the close of the taxable year, the initial amount is limited to the sum of both spouses' disability income. If one spouse has reached age 65 before the close of the taxable year, the initial amount is limited to $5,000 plus the disability income for the year of the spouse below age 65.

Section 37(c) defines disability income to mean the aggregate amount includible in the gross income of the individual for the taxable year under Code sections 72 (annuities; certain proceeds of endowment and life insurance contracts) or 105(a) (accident and health plan amounts attributable to employer contributions) to the extent such amount constitutes wages (or payment in lieu of wages) for the period during which the individual is absent from work on account of permanent and total disability.

Paragraph (3) of section 37(c) provides for reductions in the initial amount. The initial amount is reduced by any amounts received as a pension or annuity or as a disability benefit under Title II of the Social Security Act, under the Railroad Retirement Act of 1974, or otherwise excluded from gross income (with certain exceptions). No reduction in the initial amount is made for any amount excluded from gross income under Code sections 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 120 (relating to amounts received under qualified group legal services plans), 402 (relating to taxability of beneficiary of employees' trust), 403 (relating to taxation of employer annuities), or 405 (relating to qualified bond purchase plans). For purposes of the reduction, any amount treated as a social security benefit under Code section 86(d)(3) is treated as a disability benefit received under Title II of the Social Security Act.

Paragraph (1) of section 37(d) provides that the section 37 amount is reduced by one-half of the taxpayer's adjusted gross income in excess of $7,500 in the case of a single individual, $10,000 in the case of a joint return, or $5,000 in the case of a married individual filing a separate return.

Paragraph (2) of section 37(d) provides that the amount of the credit will not exceed the amount of tax imposed on the taxpayer under Chapter 1.

Paragraph (1) of section 37(e) requires that except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit is allowed only if the taxpayer and spouse file a joint return for the taxable year.

Paragraph (2) of section 37(e) provides that marital status is to be determined under Code section 143.

Paragraph (3) of section 37(e) provides that an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence of the disability in such form and manner, and at such times, as the Secretary of the Treasury may require.

Section 37(f) provides that no tax credit for the elderly and the permanently and totally disabled will be allowed to any nonresident alien.

Section 122(b) of the bill repeals Code section 105(d) which has provided an exclusion for certain disability income.

Section 122(c) of the bill makes conforming amendments to the Internal Revenue Code to reflect the revisions in the tax credit and repeal of the disability exclusion.

Effective dates

Paragraph (1) of section 122(d) provides that, except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

Paragraph (2) of section 122(d) provides as a transitional rule that, if an individual's annuity starting date was deferred under Internal Revenue Code section 105(d)(6) (as in effect on the day before the date of the enactment of this section), the deferral will end on the first day of the individual's first taxable year beginning after December 31, 1983.

Section 123. Acceleration of increases in FICA taxes; 1984 employee tax credit

Section 123(a) of the bill amends sections 3101(a) and 3111(a) of the Internal Revenue Code of 1954 to provide a new schedule of tax rates for employees and employers, each, for purposes of old-age, survivors and disability insurance (OASDI).

Under present law, the OASDI tax rate schedule for employees and employers, each, is as follows:

Calendar years:	*Percent*
1984	5.4
1985–1989	5.7
1990 and after	6.2

Under the bill, the tax rates for employees and employers, each, for OASDI are as follows:

Calendar years:	*Percent*
1984–1987	5.70
1988–1989	6.06
1990 and after	6.20

See section 202 for tax rate for OASDI for calendar years afer 2014.

Section 123(b) of the bill provides a credit for employees against OASDI and Railroad Retirement Tier 1 employee taxes for 1984 of an amount equal to three-tenths of 1 percent of the individual's wages for 1984.

Section 123(b)(1) adds a new section to the Internal Revenue Code, designated as section 3510. Subsection (a) of such new section provides a general rule for allowing the credit.

The new subsection 3510(b) provides that the credit provided shall be taken into account in determining the amount of tax deducted from the employee's wages.

The new subsection 3510(c) defines "wages" to mean the same as provided in section 3121(a) of the Internal Revenue Code.

The new subsection 3510(d) provides that, for purposes of determining amounts equivalent to the tax imposed by section 3101(a) of the Internal Revenue Code with respect to remuneration which (1) is covered by an agreement under section 218 of the Social Security Act (relating to coverage agreements with State and local governments) and (2) is paid during 1984, the credit shall be taken into account.

The new subsection 3510(e) provides for a similar credit against railroad retirement employee and employer representative taxes.

Paragraph (1) of the new subsection 3510(e) provides for allowing as a credit against the taxes imposed by section 3201(a) and 3211(a) of the Internal Revenue Code on compensation paid during 1984 and subject to such taxes an amount equal to three-tenths of 1 percent of such compensation.

Paragraph (2) of the new subsection 3510(e) provides that the credit shall be taken into account in determining the amount of tax deducted from the employee's wages.

Paragraph (3) of the new subsection 3510(e) defines "compensation" to mean the same as provided in section 3231(e) of the Internal Revenue Code.

The new subsection 3510(f) provides that for purposes of subsection (c) of section 6413 of the Internal Revenue Code (relating to refunds to employees of excess Social Security taxes withheld), in determining the amount of the tax imposed by section 3101 or 3201 of the Internal Revenue Code, any such credit shall be taken into account.

Section 123(b)(2) of the bill amends the table of contents for chapter 25 of the Internal Revenue Code to reflect the credit provided.

Section 123(b)(3) provides that the amendments made by section 123(b) shall be effective with respect to remuneration paid during 1984.

Section 123(b)(4) provides that, for purposes of section 218(h) of the Social Security Act (relating to deposits to the Social Security trust funds under voluntary agreements for coverage of State and local government employees), amounts allowed as a credit pursuant to the new subsection 3510(d) of the Internal Revenue Code shall be treated as amounts received under such an agreement. Section 123(b)(5) provides that, for purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974 (relating to maintenance of the Railroad Retirement Account), amounts allowed as credit pursuant to the new subsection 3510(e) of the Internal Revenue Code shall be treated as amounts covered into the Treasury under section 3201(a) (relating to taxes withheld from wages) of the Internal Revenue Code.

Section 124. Taxes of self-employment income; 1984 employee equivalent tax credit

Section 124(a) of the bill amends section 1401(a) of the Internal Revenue Code of 1954 to provide a new schedule of tax rates for self-employment income for purposes of old-age, survivors and disability insurance (OASDI) and hospital insurance (HI).

Under present law, the OASDI tax rate schedule for the self-employed is as follows:

Taxable years beginning after:	*Percent*
1981 (and before 1985)	8.05
1984 (and before 1990)	8.55
1989	9.30

Under the bill, the tax rate on self-employment income for OASDI are as follows:

Taxable years beginning after:	*Percent*
1983 (and before 1988)	11.40
1987 (and before 1990)	12.12
1989 (and before 2015)	12.40

See section 202 for tax rate for OASDI for taxable years beginning after 2014.

Section 124(a) of the bill also amends section 1401(b) of the Internal Revenue Code to provide a new schedule of tax rates for self-employment income for purposes of HI. Under present law, the HI tax rate schedule for the self-employed is as follows:

Taxable years beginning after:	*Percent*
1980 (and before 1985)	1.30
1984 (and before 1986)	1.35
1985	1.45

Under the bill, the tax rates on self-employment income for HI are as follows:

Taxable years beginning after:	*Percent*
1983 (and before 1985)	2.60
1984 (and before 1986)	2.70
1985	2.90

Section 124(b) of the bill provides for inserting a new subsection (c) in section 1401 of the Internal Revenue Code (and redesignating the current subsection (c) as subsection (d)). The new subsection (c) provides certain credits against the taxes imposed by section 1401 of the Internal Revenue Code.

Paragraph (1) of the new section 1401(c) provides for a credit against the taxes imposed by section 1401 for any taxable year in an amount equal to 1.8 percent (1.9 percent in the case of taxable years beginning after December 31, 1987) of the self-employment income for the individual for such taxable year.

Paragraph (2) of the new section 1401(c) provides an additional credit against the taxes imposed by section 1401 for any taxable year beginning during 1984 in an amount equal to three-tenths of 1 percent of the self-employment income of the individual for such taxable year.

Section 124(c) of the bill provides that the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

Section 125. Allocations to disability insurance trust fund

Section 125(a) of the bill amends section 201(b)(1) of the Social Security Act which deals with the amount to be allocated and appropriated to the Federal Disability Insurance Trust Fund each year. Under present law, the amounts so allocated and appropriated with respect to wages paid are as follows:

Calendar years:	*Percent*
1982–84	1.65
1985–89	1.90
1990 and after	2.20

Under the amended section 201(b)(1), the amount so allocated and appropriated will be as follows:

Calendar years:	*Percent*
1983	1.30
1984	0.50
1985–89	1.00
1990 and after	1.20

Section 125(b) of the bill amends section 201(b)(2) of the Act, which deals with the amount to be allocated and appropriated to the Federal Disability Insurance Trust Fund each year with respect to self-employment income. Under present law, the amounts so allocated and appropriated with respect to any self-employment income reported for a taxable year are as follows:

Taxable years beginning after:	*Percent*
1982 (and before 1985)	1.2375
1984 (and before 1990)	1.4250
1989	1.6500

Under the amended section 201(b)(2), the amounts so allocated and appropriated will be as follows:

Taxable years beginning after:	*Percent*
1981 (and before 1983)	1.2375
1982 (and before 1984)	0.9375
1982 (and before 1990)	1.0000
1989	1.2000

Section 131. Benefits for surviving divorced spouses and disabled widows and widowers who remarry

Section 131 of the bill provides that for purposes of determining an individual's entitlement to survivors benefits under title II of the Social Security Act, the marriage of a disabled widow(er) and a divorced disabled widow(er) after attaining age 50, and the marriage of a divorced widow(er) after attaining age 60, shall be deemed not to have occurred.

Section 131(a) amends section 202(e) of the Social Security Act (and cross-references thereto) to provide that the marriage of (A) a disabled widow or a disabled surviving divorced wife after attaining age 50 or (B) a widow or surviving divorced wife after attaining age 60 (or after attaining age 50 if, before the marriage, she was entitled to benefits as a disabled widow or disabled surviving divorced wife), shall be deemed not to have occurred.

Section 131(b) of the bill amends section 202(f) of the Social Security Act (and cross-references thereto) to provide that the marriage of (A) a disabled widower after attaining age 50 or (B) a widower after attaining age 60 (or after attaining age 50 if, before the marriage, he was entitled to benefits as a disabled widower), shall be deemed not to have occurred.

Section 131(c) of the bill amends section 202(s) of the Social Security Act to delete the provision therein for deeming not to have occurred the marriage of a disabled widower, disabled widow or disabled surviving divorced wife to an individual entitled to child's insurance benefits.

Section 131(d) of the bill provides that the amendments made by this section shall be effective with respect to monthly benefits payable for months after December 1983, except that benefits shall not be paid to an individual not entitled to such benefits for December 1983 unless proper application therefor is made.

Section 132. Entitlement to divorced spouse's benefits before entitlement of insured individual to benefits; exemption of divorced spouse's benefits from deduction on account of work

Section 132 of the bill amends sections 202 and 203 of the Social Security Act to provide spouse's benefits for a divorced spouse of an insured individual without regard to whether the individual is entitled to old-age benefits and to exempt a divorced spouse from the operation of the earnings test as it applies to persons entitled to benefits on the earnings record of the insured individual.

Section 132(a) of the bill amends section 202(b) of the Act, which provides benefits for the wife of an old-age beneficiary to add a new paragraph (5), which provides for the entitlement to, and termination of, benefits for a divorced wife of an individual who is not entitled to old-age benefits.

The new subparagraph (5)(A) provides that a divorced wife of a fully insured individual aged 62 or over who is not entitled to old-age benefits will become entitled to wife's insurance benefits if the divorced wife meets the requirements set forth in paragraph (1) for entitlement to benefits as a divorced wife and the divorce from the former husband has been in effect for at least 2 years. Subparagraph (5)(A) also provides that the amount of the benefit payable to a divorced wife entitled to benefits under this paragraph will be based on a primary insurance amount established for the insured nonentitled individual as of the date the divorced wife first becomes entitled to benefits.

The new subparagraph (5)(B) provides that, in addition to the termination events specified for a divorced wife in paragraph (1), wife's benefits payable to a divorced wife under this paragraph will terminate with the month before the first month in which the insured individual is no longer fully insured.

Section 132(b) of the bill amends sections 203(b) and 203(d) of the Act, which provide for deductions on account of work in the United

States and outside the United States, respectively, to provide that deductions because of the excess earnings of an individual shall not be made from the monthly benefits of a divorced spouse entitled to benefits on that individual's earnings record and that for purposes of determining deductions on account of such individual's excess earnings, the benefits of all other persons entitled to benefits on that individual's earnings record will be determined as if the divorced spouse were not entitled to wife's or husband's benefits on that wage record. Section 132(b) of the bill also amends section 203(f) of the Act, which specifies to which months deductions on account of excess earnings are to be charged, to exclude divorced spouses entitled to benefits on the wages of an entitled individual or nonentitled insured individual.

Section 132(c) of the bill provides that subsection (a) will apply with respect to monthly benefits payable for months after December 1984 on the basis of applications filed on or after January 1, 1985, and subsection (b) will apply with respect to monthly benefits for months after December 1984.

Section 133. Indexing of deferred surviving spouse's benefits to recent wage levels

Section 133 of the the bill amends section 202 (e) and (f) of the Social Security Act, which provide benefits for aged and disabled widows and widowers, respectively. The bill provides that in computing benefits for a surviving spouse of a worker who dies before reaching age 62, the worker's earnings will be indexed based on the year the surviving spouse becomes eligible for benefits if this results in a higher benefit than the current method of indexing the earnings based on the year the worker died.

Section 133(a)(1) of the the bill amends section 202(e)(2) of the Act by striking out the first sentence of subparagraph (A) and by redesignating the balance of that subparagraph as subparagraph (C) and by redesignating subparagraph (B) as subparagraph (D).

Section 133(a)(1) of the the bill further amends section 202(e)(2) by adding a new subparagraph (A), which provides that except where a reduction for age applies under subsection (q), an offset because of the receipt of a governmental pension based on work not covered by Social Security applies under paragraph (8) of this subsection, or the limit specified in redesignated subparagraph (D) of this subsection applies, a monthly widow's insurance benefit will be equal to the deceased worker's primary insurance amount (PIA) as determined for purposes of this subsection after application of subparagraphs (B) and (C).

Section 133(a)(1) of the the bill further amends section 202(e)(2) of the Act by adding a new subparagraph (B). Clause (i) of new subparagraph (B) provides that:

(1) in computing a PIA for purposes of determining a benefit for a widow, disabled widow, surviving divorced wife, or a disabled surviving divorced wife in the case of a worker who died before reaching age 62 and whose PIA would be computed under section 215 as in effect after December 1978 using indexed earnings, the formula to be applied to the average indexed monthly earnings (AIME) will be the formula that is applicable to workers who initially become

eligible for old-age benefits in the second year following the substitute year determined under clause (ii) of this new subparagraph;

(2) the substitute year determined under clause (ii) of this subparagraph will be used as the indexing point when the deceased worker's AIME is determined under section 215(b); and

(3) the PIA will be increased by cost-of-living adjustments under section 215(i) beginning with the second year after the substitute year determined under clause (ii) of this subparagraph.

Clause (ii) of new subparagraph (B) provides that the substitute year will be the earlier of the year the deceased worker attained age 60, or would have attained age 60 had he lived to that age, the year the survivor becomes eligible for aged widow's benefits (or the year the survivor becomes eligible for disabled widow's benefits), but in no case earlier than the second year before the year the worker dies.

Clause (iii) of the new subparagraph (B) provides that this new computation applies only when it results in a PIA that is higher than the PIA for the deceased individual that is computed under the regular computation procedures in section 215.

Section 133(a)(2) of the bill further amends section 202(e)(1) to allow the PIA's referred to in subparagraphs (B) and (C) to also be considered for purposes of determining entitlement to, or termination of, widow's insurance benefits.

Section 133(b)(1) of the bill amends section 202(f)(3) of the Act by striking out the first sentence of subparagraph (A) and by redesignating the balance of that subparagraph as subparagraph (C) and by redesignating subparagraph (B) as subparagraph (D).

Section 133(b)(1) of the bill further amends section 202(f)(3) by adding a new subparagraph (A), which provides that except where a reduction for age applies under subsection (q), an offset because of the receipt of a governmental pension based on work not covered by Social Security applies under paragraph (2) of this subsection, or the limit specified in redesignated subparagraph (D) of this subsection applies, a monthly widower's insurance benefit will be equal to the deceased worker's PIA as determined for purposes of this subsection after application of subparagraphs (B) and (C).

Section 133(b)(1) of the bill further amends section 202(f)(3) of the Act by adding a new subparagraph (B). Clause (i) of new subparagraph (B) provides that:

(1) in computing a PIA for purposes of determining a benefit for a widower or disabled widower in the case of a worker who died before reaching age 62 and whose PIA would be computed under section 215 as in effect after December 1978 using indexed earnings, the formula to be applied to the average indexed monthly earnings (AIME) will be the formula that is applicable to workers who initially become eligible for old-age benefits in the second year following the substitute year determined under clause (ii) of this new subparagraph;

(2) the substitute year determined under clause (ii) of this subparagraph will be used as the indexing point when the deceased worker's AIME is determined under section 215(b); and

(3) the PIA will be increased by cost-of-living adjustments under section 215(i) beginning with the second year after the substitute year determined under clause (ii) of this subparagraph.

Clause (ii) of new subparagraph (B) provides that the substitute year will be the earlier of the year the deceased worker attained age 60, or would have attained age 60 has she lived to that age, the year the survivor becomes eligible for aged widower's benefits (or the year the survivor becomes eligible for disabled widower's benefits), but in no case earlier than the second year before the year the worker dies.

Clause (iii) of the new subparagraph (B) provides that this new computation applies only when it results in a PIA that is higher than the PIA for the deceased individual that is computed under the regular computation procedures in section 215.

Section 133(b)(2) of the bill further amends section 202(f)(1) to allow the PIA's referred to in subparagraphs (B) and (C) to also be considered for purposes of determining entitlement to, or termination of, widower's insurance benefits.

Section 133(c) of the bill provides that the amendments made by this section apply with respect to benefits for persons becoming newly eligible for surviving spouse's benefits after December 1984.

Section 134. Limitation on benefit reduction for early retirement in case of disabled widows and widowers

Section 134 of the bill raises benefits for disabled widow(er)s entitled before age 60 to the level payable to widow(er)s who become entitled at age 60, that is, 71.5 percent of the worker's primary insurance amount. (Under present law, the benefits for disabled widow(er)s entitled before age 60 are as low as 50 percent of the worker's primary insurance amount where entitlement to such benefits begins at age 50.)

Section 134(a)(1) of the bill amends section 202(q)(1) of the Social Security Act by repealing the matter following subparagraph (B)(ii), and subparagraphs (B) and (C) to eliminate the reduction now made in disabled widow(er)'s benefits for months the widow(er) is under age 60. The matter that is repealed specified the factor used in the reduction of benefits for disabled widow(er)s and the number of months for which the reduction applied when the initial month of entitlement is a month prior to age 60.

Section 134(a)(2)(A) of the bill restates section 202(q)(6) of the Act to delete section 202(q)(6)(B) that defines the "additional reduction period" for disabled widow(er)'s benefits. The period began with the first month of entitlement or age 50, whichever is later, and ended at age 60. The remaining portion of 202(q)(6) is restated and redesignated.

Sections 134 (a)(2)(B) and (a)(2)(C) of the bill contain conforming changes to section 202(q) of the Act to delete references to the repealed section 202(q)(6)(B).

Section 134(a)(3) of the bill amends section 202(q)(7) of the Act to delete language pertaining to the "additional adjusted reduction period", applicable in cases where entitlement to widow(er)'s insurance benefits begins prior to age 60.

Section 134(a)(4) of the bill amends section 202(q)(10) of the Act to delete references that pertain to the "additional adjusted reduction period".

Section 134(b) of the bill amends section 202(m)(2)(B) of the Act (as applicable after enactment of P.L. 123) by making a conforming change to refer to the new section 202(q)(6)(B). (Section 202(m) provides a minimum benefit for certain sole survivors.)

Section 134(c) of the bill makes the provision applicable to benefits payable to widow(er)s effective for months after December 1983.

Section 141. Normalized crediting of social security taxes to trust funds

Section 141 amends section 201(a) of the Social Security Act, which deals with transfer of Social Security tax income from the general fund of the Treasury to the trust funds, to provide for transferring total estimated Social Security tax receipts for each month from the general fund of the Treasury to the Social Security trust funds on the first day of the month. Under present law, Social Security taxes are transferred daily throughout the month on the basis of estimated tax receipts.

Sections 141(a)(1) (A) and (B) amend section 201(a) of the Social Security Act to provide for such transfers of Social Security taxes from the general fund to the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds.

Paragraph (2) of section 141(a) of the bill provides that all amounts transferred to either Trust Fund under the amended section 201(a) shall be invested by the Managing Trustee of the Trust Fund in the same manner and to the same extent as the other assets of such Trust Fund. Further, such Trust Fund shall pay interest to the general fund of the Treasury on the amount transferred on the first day of the month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of such Fund in the same month under section 202(d).

Sections 141(b) (1) and (2) amend section 1817(a) of the Social Security Act to make comparable changes with respect to the transfer of taxes (including interest thereon) to the Federal Hospital Insurance Trust Fund.

Section 141(c) provides that the amendments made by section 141 shall become effective on the first day of the month following the month of enactment.

Section 142. Interfund borrowing extension

Section 142 of the bill provides for authorization of interfund borrowing among the Social Security trust funds for calendar years 1983–1987, with provision for repayment of the principal and interest of all such loans.

Section 142(a) amends sections 201(1) and 1817(j) of the Secial Security Act to reauthorize interfund borrowing among the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund and the Federal Hospital Insurance Trust Fund for 1983–1987. Prior authority for such borrowing expired at the end of 1982.

Section 142(b) further amends sections 201(1) and 1817(j) to provide for repayment of all sums borrowed under this and previous authorities at the earliest feasible date and in any event no later than December 31, 1989.

Section 143. Recommendations by boards of trustees to alleviate inadequate balances in the social security trust funds

Section 143 adds a new section 709 to title VII of the Social Security Act providing for recommendations by the Boards of Trustees of the Social Security Trust Funds to the Congress to alleviate inadequate balances in the trust funds.

The new section 709 provides that if the Board(s) of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund determine at any time that the balance of such Trust Fund may become inadequate to assure the timely payment of benefits from such Trust Fund, the Board(s) shall promptly submit to each House of the Congress a report setting forth the Board's recommendations for statutory adjustments affecting the receipts and disbursements to and from such Trust Fund necessary to alleviate such inadequacy, with due regard to the economic conditions which created such inadequacy and the amount of time necessary to alleviate such inadequacy in a prudent manner.

Section 151. Financing of noncontributory military wage credits

Section 151(a) of the bill provides for a lump sum reimbursement of the Social Security trust funds by the general fund of the Treasury for the cost of past and future Social Security benefits attributable to noncontributory Social Security wage credits for military service provided under section 217 of the Social Security Act for the period on or after September 16, 1940 to December 31, 1956.

Section 151(a) of the bill replaces section 217(g) of the Act with a new section 217(g). (Under the present section 217(g), the Social Security trust funds are reimbursed by Treasury annually, based on an amortization schedule, for the cost of additional Social Security benefits attributable to noncontributory wage credits for military service for the period from September 16, 1940 to December 31, 1956).

The new section 217(g)(1) provides that within 30 days after enactment, the Secretary shall determine the amount equivalent to the actuarial present value of all past and future OASDHI benefits and the associated administrative costs (less reimbursement previously made under subsection (g) as in effect prior to enactment) attributable to the noncontributory wage credits granted as a result of section 217 of the Act.

The new section 217(g)(1) further provides that in determining such actuarial present value, the Secretary consider the relevant assumptions adopted by the Board of Trustees in their 1983 report. The new section 217(g)(1) also requires the Secretary of the Treasury to transfer to the OASDHI trust funds within 30 days after enactment the amount as determined by the Secretary under this new section.

The new section 217(g)(2) provides that the Secretary would revise the amount of the lump sum determined under paragraph (1) in 1985 and every fifth year thereafter in order to make any necessary adjustments to the prior determinations based on the actual costs of benefits based on credits granted under section 217 and to take into account the relevant assumptions adopted by the Board of Trustees for the year in which the redetermination is made. Within 30 days after such a revision, the Secretary of the Treasury is required (to the extent provided in advance by appropriation acts) to transfer from the general fund to the OASDHI trust funds amounts equal to any underpayments as determined by the Secretary plus amounts equal to the administrative expenses necessary to carry out the provisions. The trust funds would reimburse the general funds for any overpayments.

Section 151(b) of the bill provides for annual reimbursement of the Social Security trust funds by the general fund of the Treasury of an amount equal to the value of Social Security employer and employee taxes which would have been paid on the deemed military wage credits provided under section 229 of the Act after 1982 if such credits were wages covered under Social Security. (The amount equal to the value of Social Security employer and employee taxes for such credits before 1983 would be reimbursed in a lump sum payable 30 days after enactment.)

Section 151(b)(1) of the bill replaces section 229(b) of the Act with a new section 229(b). (Under the present section 229(b) the Social Security trust funds are reimbursed annually by Treasury, based on an amortization schedule, for the cost of additional Social Security benefits attributable to the deemed wage credits for military service for the period after 1956.)

The new section 229(b) authorizes annual appropriations on July 1 from the general fund of the Treasury to the OASDHI trust funds of an amount, as determined by the Secretary, equal to the value of the OASDHI employer and employee taxes which would have been imposed if the deemed wage credits provided under section 229(a) had been remuneration for employment as defined in 3121(b) of the Internal Revenue Code. The amounts authorized to be appropriated under section 229(b) shall be based on estimates of the Secretary as to the military wages deemed to be paid for the year under 229(a), and such amounts shall be adjusted to the extent that prior estimates were in excess of or less than actual deemed military wages.

Section 151(b)(2) of the bill provides that section 151(b)(1) of the bill shall apply with respect to military wages deemed to have been paid for calendar years after 1982.

Section 151(b)(3)(A) of the bill requires the Secretary of Health and Human Services to determine within 30 days after enactment the additional amounts which would have been appropriated to the trust funds if OASDHI employer and employee taxes had been imposed on the military wages deemed to have been paid under section 229(a) for periods before 1983, if those deemed wages had been remuneration for periods before 1983, if those deemed wages had been remuneration for employment as defined in section 3121(b) of the Code, plus the interest which would have been earned by the trust funds if such taxes had been paid for those deemed wages.

Section 151(b)(3)(B)(i) of the bill requires the Secretary of the Treasury within 30 days after enactment to transfer to the OASDHI trust funds an amount equal to the amount determined under section 151(b)(3)(A) of the bill, less any reimbursement made prior to enactment with respect to such military wages deemed to have paid before 1983.

Section 151(b)(3)(B)(ii) of the bill provides that the Secretary of Health and Human Services shall revise the amount determined under section 151(b)(3)(B)(i) of the bill within 1 year after the date of the transfer based on the actual amount of additional deemed wages credited under section 229(a) for periods prior to 1983. The bill requires the Secretary of the Treasury within 30 days after any such revision to transfer to the trust funds, or from the trust funds to the general fund of the Treasury, the amounts the Secretary certifies as necessary to compensate for the revision.

Section 152. Accounting for certain unnegotiated checks for benefits under the social security program

Section 152 of the bill provides for transferring amounts representing unnegotiated checks for benefits under title II of the Social Security Act from the general fund of the Treasury to the Social Security trust funds.

Section 152(a) amends section 201 of the Social Security Act (as amended by section 143 of the bill) to provide that the Secretary of the Treasury (1) shall implement procedures to permit the identification of old-age and survivors insurance and disability insurance benefit checks not presented for payment by the close of the sixth month after the month they were issued; (2) shall credit the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for all benefit checks (including interest thereon) drawn from such trust funds that are not presented for payment before the close of such sixth month and that have not previously been credited; (3) shall pay benefit checks presented for payment after the close of such sixth month and recharge the appropriate trust fund accordingly; and (4) may, if the Secretary determines it to be necessary to effect proper payment, cancel any unnegotiated original benefit check and issue a current benefit check in lieu thereof.

Section 152(b) provides that the amendments made by section 152(a) shall apply to all title II benefit checks issued on or after the first day of the 24th month after the month of enactment.

Section 152(c) provides interim procedures for determining the amounts of and crediting unnegotiated checks pending implementation of the provisions of section 152(a) and defines unnegotiated checks under the interim procedures.

Paragraph (1) of the new section 152(c) provides for monthly transfers from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund of amounts determined by the Secretary of the Treasury and the Secretary of Health and Human Services to be unnegotiated checks, including interest thereon. Transfers under paragraph (1) shall occur in the month following the month of enactment and in each of the succeeding 30 months, after which the provisions of section 201 of the Social Security Act as amended by this section shall become effective.

Paragraph (2) of the new section 152(c) provides that, for purposes of paragraph (1), the term "unnegotiated benefit checks" means title II benefit checks issued prior to the 24th month after enactment that remain unnegotiated more than 6 months after the month of issuance and that have not perviously been credited to the Trust Fund on which they were drawn.

B. Additional Provisions Relating to Long-Term Financing of the Social Security System (Title II)

1. GENERAL DISCUSSION

The long-term deficit in social security financing is the result of increased numbers of retirees in the next century as the baby-boom generation retires, of the wage-indexed benefit structure that guarantees to future retirees increased real benefits that will reflect general increases in the standard-of-living over their working careers and of inadequate long-term funding provided in previous congressional actions.

The National Commission on Social Security Reform estimated that the long-range actuarial deficit of the OASDI Trust Funds over the 75-year valuation period from 1982–2056 would be 1.80 percent of taxable payroll. They estimated that enactment of the provisions in their "consensus" package would reduce this deficit to 0.58 percent of taxable payroll. While the Commission members who voted in favor of the "consensus" package agreed that the long-range deficit should be reduced to approximately zero, they were unable to agree on a specific recommendation. Some members favored a proposal to gradually increase the normal retirement age in the next century and others supported an increase in the contribution rates in 2010.

According to the latest estimates by the Social Security Administration's Office of the Actuary (using the anticipated intermediate II-B assumptions of the 1983 Trustees Report) the long-range actuarial deficit of the OASDI Trust Funds over the period 1983–2057 is projected to be 2.09 percent of taxable payroll. Your Committee's bill, exclusive of Title II, would reduce this deficit to 0.68 percent of taxable payroll.

Your Committee's bill would eliminate the remaining long-range deficit through a combination of an increase in OASDI taxes and a gradual change in the benefit formula to slow down the future growth in real social security benefits. The increases in real benefits graranteed by the current benefit formula can be moderated without reducing the purchasing power of benefits in the future, while at the same time assuring beneficiaries and workers that the cost of the program will not absorb a disproportionate amount of the nation's wealth as the number of elderly increase.

It should be noted that the cost of the OASDI program as a percent of Gross National Product (GNP) increases over the 75-year projection period from the present 5.2 percent to around 5.5 percent by 2060, with some fluctuations downward from 1990 to 2010, followed by an increase to over 6 percent in 2030 and then a gradual decrease through 2060. In contrast, the income to the program as a percent of GNP declines from the current 4.75 percent to around 4 percent by 2060, with some increases over the period coinciding with the period of the least cost of the program (1985–2000). It is therefore clear that one of the major causes of the long-term defict is that a relatively steady share of an increasing national economy is guaranteed for social security benefit payments by the wage-indexed benefit structure, while a steadily decreasing share of the GNP is being dedicated to support those benefits.

Under your Committee's bill, workers and beneficiaries would share responsibility for assuring the long-term solvency of the social security system through some reduction in future benefit growth and some increase in taxes after a 25-year period of no tax increases at all. Those expecting to receive benefits in the next century would be assured that the system is solvent, while those who will be working to support those benefits would have the assurance that only a modest increase in taxes would be required.

Section 201. Adjustments on OASDI benefit formula

Your Committee's bill provides for reducing initial benefit levels by approximately 5 percent by decreasing the percentage factors in the benefit formula by two-thirds of one percent of their present law value each year for a period of 8 years beginning with the formula applicable for the year 2000.

Under current law, a primary insurance amount is computed for each worker by first determining an average indexed monthly earnings (AIME) figure (measured over the working lifetime and using earnings that are updated to take account of increases in average wage levels) and multiplying portions of that average by a series of percentage factors. For those eligible for retirement benefits in 1983, for example, the first $254 of AIME is multiplied by 90 percent, the next $1,274 of AIME multiplied by 32 percent, and all AIME over $1,528 is multiplied by 15 percent. The dollar figures ($254 and $1,528) in this formula (called bend points) are increased each year to reflect rising wages, but the percentage factors are held constant.

Your Committee's bill provides for decreasing the percentage factors in the formula according to the following schedule:

For initial eligibility (or death) in—	The applicable percentage		
	Up to the first bend point is—	Between the first and second bend points is—	Above the second bend point is—
1979–99	90.0	32.0	15.0
2000	89.4	31.8	14.9
2001	88.8	31.6	14.8
2002	88.2	31.4	14.7
2003	87.6	31.1	14.6
2004	87.0	30.9	14.5
2005	86.4	30.7	14.4
2006	85.8	30.5	14.3
2007 and after	85.2	30.3	14.2

In addition, your Committee's bill provides for reducing the 61 percent factor, which is a substitute for the 90 percent factor under the provision to eliminate windfall benefits (section 113 of this bill) by two-thirds of one percent each year until it ultimately reached 57.7 percent for 2007 and later.

Reducing the percentage factors in the formula is a more equitable method for reducing benefit levels than altering the bend points. Reducing the percentage factors applies the reduction in initial benefit levels equally at all levels of earnings, while the bend point approach would result in some skewing of the weighting that presently exists in the formula.

Your Committee's provision is phased in—taking 8 years to realize the full 5 percent reduction in benefit levels and only affecting newly eligible beneficiaries each year (roughly 4 percent of the total). Replacement rates for successsive cohorts of newly eligible beneficiaries decline slightly each year during the phase-in period and then level off when the proposal is fully effective in 2007. As a result of the provision, the replacement rate for a steady average-wage earner will be reduced from 42 percent of AIME to 40 percent. However, using the 1.5 percent real wage growth projected by the Office of the Actuary under the intermediate II-B assumptions, real benefits will continue to increase over successive cohorts of newly eligible beneficiaries even during the phase-in.

Section 202. Adjustments in OASDI taxes

Your Committee's bill provides for increasing the OASDI tax rate for employees, employers, and the self-employed in 2015. OASDI taxes for employees and employers are currently scheduled to increase to 6.2 percent each effective for 1990 and after. OASDI taxes for self-employed persons will ultimately reach 12.4 percent for 1990 and after under section 124 of your Committee's bill. Under this provision, you Committee's bill provides for increasing OASDI taxes in 2015 to 6.44 percent for employees and employers each and to 12.88 percent for the self-employed.

2. SECTION-BY-SECTION EXPLANATION—TITLE II

Section 201. Adjustments in OASDI benefit formula

Section 201 of the bill, once it becomes fully effective in 2007, will provide for a uniform reduction of initial benefits for newly eligible workers of approximately 5 percent at all earnings levels.

Section 201(a) of the bill amends section 215(a)(1)(A) of the Social Security Act by providing that the benefit formula factors will be determined under the new section 215(a)(8), rather than always being the 90 percent, 32 percent and 15 percent factors currently specified in this section.

Section 201(b) of the bill amends section 215(a)(7)(B) of the Act (as added by section 113(a) of this bill) by providing that the first factor of the benefit formula that is applicable to workers who receive pensions based on employment that is not covered by Social Security will be determined under the new section 215(a)(8), rather than always being 61 percent.

Section 201(c) of the bill adds a new section 215(a)(8) to the Act. This new paragraph provides a table specifying the benefit formula factors applicable under section 215(a)(1) as 90 percent, 32 percent and 15 percent for workers who become eligible for benefits or die before 2000, and gradually decreasing (at ⅔ percent per year) until the percentages are 85.2 percent, 30.3 percent, and 14.2 percent, respectively, for workers who become eligible for benefits or die after

2006. Similarly, the 61 percent factor referred to in section 215(a)(7) will gradually decrease to 57.7 percent over the same time period.

Section 202. Adjustments in OASDI tax rates

Section 202 amends sections 3101(a), 3111(a) and 1401(a) of the Internal Revenue Code of 1954 to provide for further changes in the schedule of old-age, survivors and disability insurance (OASDI) tax rates specified in sections 122 and 123 of the bill for 1990 and after for employees and employers, each, and for the self-employed.

Subsections (a) and (b) provide further changes in the schedule of tax rates on wages for 1990 and after for purposes of OASDI. Under the schedule provided in section 122 of this bill, the OASDI tax rate for employees and employers, each, for 1990 and after is 6.2 percent. Under this section, the 6.2-percent rate is effective only through 2014. Beginning in 2015, the tax rate provided under the bill, as amended by this section, is 6.44 percent, each, for employers and employees.

Subsection (c) provides further changes in the schedule of tax rates on self-employment income for 1990 and after for purposes of OASDI. Under the schedule provided in section 123 of this bill, the OASDI tax rate for the self-employed for 1990 and after is 12.4 percent. Under this section, the 12.4-percent rate is effective only through 2014. Beginning in 2015, the tax rate provided under the bill, as amended by this section, is 12.88 percent for the self-employed.

The tax-rate schedules for OASDI for employees and employers, each, and the self-employed, as provided under this section and section 123 are shown below.

Employees and Employers, Each

Calendar years:	*Percent*
1984–1987	5.70
1988–1989	6.06
1990–2014	6.20
2015 and after	6.44

Self-Employed

Taxable years beginning after:	*Percent*
1983 (and before 1988)	11.40
1987 (and before 1990)	12.12
1989 (and before 2015)	12.40
2014	12.88

C. Miscellaneous and Technical Provisions (Title III)

1. General Discussion

A. CASH MANAGEMENT

Section 301. Float periods

Under current law, social security benefit checks are issued to beneficiaries on the third day of each month. Current Treasury procedures allow a two-day float period before trust fund monies are actually transferred to the Treasury to pay the checks which have been issued. No float period is provided for the approximately one-third of total benefit payments which are deposited directly in beneficiaries' banking accounts. Nor is a float period provided for retroactive benefit adjustment checks issued during the month.

A study recently completed by the Inspector General of the Department of Health and Human Services found that it took an average 5.2 days for recurring benefit checks to clear the banking system. Retroactive benefit checks require an average 11.1 days to be processed. The Inspector General estimated that if a 5 day float period were provided, interest income to the OASDI funds would be increased by $91.5 million annually.

Your Committee's bill requires the Secretaries of Treasury and Health and Human Services to conduct a study consisting of two separate investigations. The first investigation concerns the actual average length of time between the issuance of benefit checks and their redemption. The Secretary of Treasury would be required to report within six months to the Congress and the President concerning the investigation's findings and, to adjust by regulation, the current float period to more accurately reflect the actual average length of time between issuance of benefit checks and their redemption. Necessary regulations are to be promulgated within six months of the date of enactment.

The second investigation concerns the feasibility and desirability of providing for the transfer, on a daily basis, to the general fund from the appropriate trust fund, amounts equal to the amounts of benefit checks which are paid by the Federal Reserve Banks on that day. The results of this investigation are to be submitted to the Congress within 12 months of the date of enactment. Regulations necessary to implement appropriate changes shall be promulgated within 12 months of the date of enactment.

Section 302. Interest on late State deposits

Your Committee's bill provides, in general, that the rate of interest charged on late payments of contributions due on the earnings of State and local employees shall be equal to the average interest rate earned by new special obligations of the trust funds during the period of the delinquency. Currently the rate of interest charged on late payments is 6 percent per annum.

This change would eliminate any incentive for States to delay payments of contributions on the earnings of their employees, in order to invest the money at rates well above 6 percent.

Changes made by this section would apply to payments due for wages paid after December 31, 1983.

Section 303. Trust fund investment procedures

Your Committee's bill makes several changes in the investment procedures of the social security trust funds.

Under current law payroll tax revenues which are in excess of the amount necessary to pay current benefits are to be invested in special issue obligations available for purchase only by the trust funds. Such obligations have maturities fixed with due regard for the needs of the trust funds and bear an interest rate equal to the average market yield on all marketable interest bearing obligations of the U.S. which are not due or callable within 4 years. These current procedures have been criticized when short-term rates exceed long-term rates because trust funds have been invested in special issues with lower yields than those available to investors in short-term government securities.

Your Committee's bill corrects disparities between yields available to the trust funds and other government investors by providing that the trust funds can be invested in special issues at short- or long-term rates in order to maximize the return to the funds.

The bill also provides that: the interest rate assigned to the trust funds shall be adjusted monthly; all present special issues should be redeemed at their current market values; all "flower bonds" shall be redeemed at their current market values; all other current holdings, not needed to meet outgo, be held until maturity; and that only special issues should be purchased by the trust funds in the future.

In recent years, the Annual Reports of the Board of Trustees of the OASI, DI and HI Trust Funds, have included actuarial opinions by the Chief Actuary of the Social Security Administration and the Director of the Office of Financial and Actuarial Analysis of the Health Care Financing Administration. These actuarial opinions have stated that: (1) the techniques and the methodologies used in formulating the Trustees' Reports are generally accepted within the actuarial profession; and (2) that the assumptions and cost-estimates underlying the Trustees' Reports are reasonable.

Your Committee's bill would require that such actuarial opinions be included in all future Reports of the Boards of Trustees of the OASDI and HI Trust Funds.

Under current law, the Boards of Trustees are required to report to the Congress not later than the first day of April of each year, on the operation and status of the trust funds during the preceeding fiscal year and on their expected operation and status during the next ensuing five years. In view of the scope of these Social Security Act Amendments, your Committee's bill provides an exception to the April first deadline for 1983 only and requires that the Annual Reports of the Trustees for 1983 be filed not later than 45 days after enactment of this legislation.

Section 304. Budget treatment of trust fund operations

Prior to fiscal year 1969, the operations of the social security trust funds were not included in the unified budget of the Federal Government. In 1974, in enacting the Congressional Budget Act of 1974, Congress implicitly approved the inclusion of the social security trust funds in the unified budget. As a result, trust fund receipts and expenditures are included in statements of the status of the Federal budget.

Your Committee believes that it would be desirable to provide assurance that changes in the social security will not be made on the basis of budgetary considerations. Thus, your Committee's bill provides that beginning in fiscal year 1988, the operations of the OASI, DI, and HI Trust Funds are to be removed from the unified budget. During the interim years, the social security trust funds would be displayed as a separate function within the budget.

B. ELIMINATION OF GENDER-BASED DISTINCTIONS

Section 311. Divorced husbands

Current law provides for the payment of benefits to aged divorced wives and aged or disabled surviving divorced wives but benefits are not provided for similarly situated men. As a result, *Oliver* v. *Califano* (1977) and other court decisions, benefits are currently being paid by the Social Security Administration to aged divorced husbands and aged or disabled surviving divorced husbands on their former wives' earnings records. Your Committee's bill amends the statute to conform to these court decisions.

Section 312. Remarriage of surviving spouse before age of eligibility

Widows and widowers who remarry before age 60 are treated differently with respect to their eligibility for benefits based on their deceased spouses' earnings. A woman may qualify for benefits as a surviving spouse, even though she has remarried, so long as she is not married at the time she applies for benefits. A man, however, under current law loses forever his eligibility as a surviving spouse of his deceased wife worker if he remarries before age 60. Since the decision of *Mertz* v. *Harris* (1980), SSA has paid benefits to remarried widowers on the same basis as to remarried widows. Your Committee's bill, therefore, makes the statutory requirements widowers and widows consistent.

Section 313. Illegitimate children

Under current law, an illegitimate child may be eligible for benefits based upon a man's earnings, without regard to the appropriate State intestate laws, if, among other things, the man has been decreed by a court to be the father of that child, or the man is shown by evidence satisfactory to the Secretary to be the father of the child. Similar provisions do not currently apply when an illegitimate child claims a benefit based upon his mother's earnings. Additionally, in *Jimenez* v. *Weinberger* the Supreme Court in 1974, declared unconstitutional the requirement that acknowledgement of paternity must have been made prior to the time a worker first became eligible for benefits.

Your Committee's bill removes this gender-based distinction by providing that illegitimate children shall be eligible for benefits based on their mother's earnings as they are currently for benefits based on their father's earnings.

Section 314. Transitional insured status

Presently, certain workers who attained age 72 before 1969 are eligible for social security benefits under transitional insured status provisions which require fewer quarters of coverage than would ordinarily be required. Wives and widows of eligible male workers who reached 72 prior to 1969 also are eligible for benefits under this provisions, but husbands and widowers of eligible female workers are not.

Your Committee's bill removes this inequity by extending to husbands and widowers the transitionally insured status provisions which currently apply to wives and widows.

Section 315. Equalization of benefits under section 228

Under section 228 of current law (Proutly Benefits), special payments are provided to persons who attained age 72 before 1968 and who have no quarters of coverage and to persons age 72 in 1968 or after who have at least three quarters of coverage for every year after 1966 and before the year of attainment of age 72. However, even though each spouse must meet the same eligibility requirements he or she would have to meet if not married, once the eligibility of both is determined, the couple is treated as if the husband were the retired worker and the wife were the dependent. The benefit is allocated so that the husband is paid two-thirds of the benefit and the wife is paid one-third.

This gender-based distinction is removed by your Committee's bill which provides that where both husband and wife each qualify for Prouty Benefits under section 228, each will receive a full monthly benefit.

Section 316. Father's insurance benefits

Current law provides that a young wife, widowed mother or surviving divorced mother who has an entitled child under age 16 in her care receives a benefit for both herself and her child based upon the earnings of her husband. Under present law a similarly situated father cannot qualify for benefits based on his retired, disabled, or deceased wife's earnings. As result of the Supreme Court decision *Weinberger* v. *Wiesenfeld* (1975), and other court and administrative decisions, SSA is currently paying benefits to similarly situated fathers.

Your Committee's bill conforms the statute to the court decisions on this issue, and provides that social security benefits will be available to a father who has in his care an entitled child of his retired, disabled, or deceased wife (or deceased former wife).

Section 317. Effect of marriage on childhood disability benefits and on dependent or survivor benefits

Under present law, when a childhood disability beneficiary is married to another childhood disability beneficiary or to a disabled worker beneficiary, and the disability benefits of one of the beneficiaries is terminated because the beneficiary recovers or engages in substantial work, the continued eligibility of the other spouse depends upon the spouse's sex. A woman's childhood disability benefits end when her husband's disability benefits end. However, a man's childhood disability benefits are not terminated when his wife's disability benefits end.

In addition, if a childhood disability beneficiary or disabled worker beneficiary marries a person receiving certain kinds of social security dependent or survivor benefits, the benefits of each individual continue. If the disabled beneficiary is a male and he recovers or engages in substantial work and his benefits are terminated, his wife's benefits also end. If, however, the disabled beneficiary is a woman, her husband's benefits are not terminated when her disability benefits end.

Both of these gender based distinctions are removed by your Committee's bill. In the first case, the bill continues the benefits of a childhood disability beneficiary, regardless of sex, when the beneficiary's spouse is no longer eligible for benefits as a childhood disability beneficiary or disabled worker beneficiary. In the second case, your Committee's bill continues social security payments to an individual, regardless of sex, who is receiving dependents' or survivors' benefits, when his or her spouse is no longer eligibility for childhood disability benefits or benefits as a disabled worker.

Section 318. Credit for certain military service

Under present law, a widow but not a widower is permitted, under certain circumstances, to waive the right to a civil service survivor's annuity and receive credit (not otherwise possible) for military service prior to 1957 for purposes of determining eligibility for, and the amount of, social security survivors' benefits.

Under your Committee's bill, widowers will be allowed to exercise this option in the same manner currently permitted for widows.

C. COVERAGE

Section 321. Coverage of employees of foreign affiliates of American employers

Extension of social security coverage

Under present law, FICA tax is not imposed on wages paid to U.S. citizens and resident aliens working abroad for a foreign employer. However, a domestic corporation may extend social security coverage to U.S. citizens employed by its foreign subsidiary by entering into a voluntary agreement to pay FICA tax for such U.S. citizens (Code sec. 3121(1)). This coverage is available only to U.S. citizens employed by (1) a (first-tier) foreign subsidiary at least 20 percent of the voting stock of which is owned by the domestic corporation, or (2) a second-tier foreign subsidiary at least 50 percent of the voting stock of which is owned by a qualifying first-tier subsidiary. Further, this coverage is available only if the services performed for the foreign subsidiary by the U.S. citizen would constitute covered employment if performed in the United States.

There is no comparable provision for extending social security coverage to U.S. citizens employed by a foreign subsidiary below the second-tier level or by an unincorporated foreign affiliate of any American employer.

Consistent with the goal of providing the broadest possible social security coverage, your Committee believes that social security coverage should be extended to U.S. citizens who are employed by foreign affiliates (including unincorporated businesses) of any American employer. Your Committee has concluded that the form in which a business is organized should not be determinative of whether social security coverage can be extended. Your Committee has also concluded that the ownership interest in the foreign affiliate that is required to be held by the American employer should be reduced from 20 percent to 10 percent (of direct or indirect ownership). In view of the reasons underlying the provision of your Committee's bill that provides for the imposition of the FICA tax on wages paid to resident aliens employed by American employers outside the United States, your Committee believes that this coverage should be further extended to resident aliens employed by foreign affiliates of American employers.

Your Committee's bill provides that any American employer (a U.S. individual, partnership, trust, or a corporation) can extend social security coverage to U.S. citizens and resident aliens employed by foreign affiliates of the American employer. A "foreign affiliate of an American employer" is defined as any foreign entity in which the American employer owns at least a 10-percent interest (directly or through one or more entities). An American employer holds the required ownership interest in a foreign affiliate if (1) in the case of a foreign corporation, the American employer owns (directly or indirectly) at least 10 percent of the corporation's voting stock, or (2) in the case of any other foreign entity, at least 10 percent of the profits interests.

As under present law, social security coverage in U.S. citizens and resident aliens employed by foreign affiliates can be obtained only if the American employer enters into a voluntary agreement to pay FICA tax for U.S. citizens and resident aliens employed by the foreign affiliate. Similarly, this coverage will be available only if the services performed for the foreign affiliate would constitute covered employment if performed in the United States.

The provision will apply to agreements entered into after the date of enactment, and to modifications of agreements previously entered into which are made after the date of enactment. At the election of any American employees, the provision will apply to any agreement entered into on or before the date of enactment.

Qualified pension plan coverage

Under present law (sec. 406), if U.S. citizens are employed by a domestic corporation's foreign subsidiary and the domestic parent corporation has entered into an agreement to pay FICA tax for the U.S. citizens employed by its foreign subsididary, then such U.S. citizens can be included in the qualified pension, profit-sharing, stock bonus, and so forth, plan of the domestic parent corporation.

Your Committee recognizes that the rationale of present law section 406 is that it should be possible to provide coverage under qualified pension, profit-sharing, stock bonus, etc., plans to the same extent that social security coverage can be extended. In view of the provision of the Committee bill that allows the extension of social security coverage to resident aliens employed by a foreign affiliate of an American employer, your Committee concluded that a corresponding change should be made in the treatment of coverage under qualified pension, profit-sharing, stock bonus, etc., plans.

The Committee bill provides that, if the requirements of present law are otherwise satisfied, coverage under a qualified pension, profit-sharing, stock bonus, etc., plan of an American employer can be extended to resident aliens, as well as U.S. citizens. Thus, an American employer can treat U.S. citizens and resident aliens employed by a foreign affilitate as its own employees, for purposes of extending coverage under a qualified pension, profit-sharing, stock bonus, etc., plan. A conforming amendment is made to section 407, relating to the treatment of certain employees of domestic subsidiaries operating primarily abroad as employees of the domestic parent corporation.

The bill will apply to American employers who enter into agreements to pay FICA tax after the date of enactment, and to American employers who modify agreements previously entered into after the date of enactment. At the election of any American employer, the provision will apply to an agreement to pay FICA tax entered into on or before the date of enactment. The conforming change to section 407 will apply to any plan established after the date of enactment; or, at the election of a domestic parent corporation, to any plan established on or before the date of enactment.

Section 322. Extension of coverage by international social security agreement

The purpose of an international social security agreement is to establish "methods and conditions for determining under which system [i.e., the foreign system or our own] employment, self-employment, or other service shall result in a period of coverage". However, through inadvertent drafting errors in the Internal Revenue Code and the Social Security Act, earnings that are intended to be covered under the U.S. system pursuant to an international social security agreement are not covered. This occurs because U.S. social security taxes cannot be imposed on the earnings.

Your Committee's bill corrects these errors by providing for the imposition of social security taxes if an international social security agreement provides for coverage under the U.S. social security system. This provision is effective for taxable years after the date of enactment.

Section 323. Treatment of certain service performed outside the United States

Service performed by resident of the United States for American employers

Under present law (Code sec. 3121(b)), social security tax under the Federal Insurance Contributions Act (FICA tax) is imposed on wages paid to U.S. citizens for service performed for American employers inside and outside the United States. The term "American employer" is defined to include an individual who is a U.S. resident, a partnership in which two-thirds or more of the partners are U.S. residents, a trust of which all of the trustees are U.S. residents, and a corporation organized under the laws of the United States or of any State (sec. 3121(h)). The FICA tax is also imposed on wages paid to resident aliens for services performed for American employers inside the United States. However, no FICA tax is imposed on wages paid to resident aliens for services performed for American employers outside the United States.

Your Committee believes that the disparate treatment of U.S. citizens and resident aliens who work for American employers abroad should be eliminated. Your Committee recognizes that resident aliens working for American employers outside the United States are likely to have the same economic and personal ties with the United States, and the same expectation of returning to the United States, as do U.S. citizens. Your Committee believes that the coverage of these resident aliens will prevent the gaps in coverage which would otherwise occur when resident aliens who ordinarily work in covered employment outside the United States temporarily work abroad for an American employer.

Your Committee's bill provides that FICA tax will be imposed on wages for service performed outside the United States by a resident alien as an employee for an American employer, to the same extent that FICA tax is imposed on wages paid to a U.S. citizen for such service. Thus, FICA tax will be imposed on wages paid to a resident alien working for an American employer only if the services performed would constitute covered employment if performed in the United States. A conforming amendment is made for purposes of benefits paid under the Social Security Act.

The provisions will be effective for remuneration paid after December 31, 1983.

Service performed by self-employed U.S. citizens and residents of the United States

The social security tax on self-employment income (SECA tax) is generally imposed on the worldwide self-employment income of U.S. citizens and resident aliens. The starting point for computing self-employment income is gross income (sec. 1402). For income tax purposes, U.S. citizens working abroad can exclude from gross income up to $80,000 (increasing to $95,000 in 1986) of foreign earned income a year if they were present in a foreign country for 330 days (approximately 11 months) during a period of 12 consecutive months, or if they were *bona fide* residents of a foreign country for an entire taxable year (sec. 911).

Under present law, foreign earned income that is excluded for income tax purposes is included in self-employment income for SECA tax purposes, where a U.S. citizen or resident alien meets the 11-month physical presence test but does not meet the *bona fide* resident test. If a U.S. citizen satisfies the *bona fide* residence test, foreign earned income is also excluded for SECA tax purposes. (An individual who is not a U.S. citizen would not be subject to SECA tax if he is resident in a foreign country.)

Your Committee believes that, for purposes of the SECA tax, there is no reason to distinguish between U.S. citizens who qualify as residents of a foreign country for a year and U.S. citizens who are physically present in a foreign country for 11 months of the year. Rather, the SECA tax should be imposed on the worldwide self-employment income of all U.S. citizens.

Your Committee's bill provides that, for purposes of the SECA tax, all U.S. citizens working abroad will be treated in a consistent manner. Thus, self-employment income will be computed without regard to the exclusion of foreign earned income, regardless of whether a U.S. citizen qualifies as a resident of a foreign country or satisfies the physical presence text. A conforming amendment is made for purposes of benefits paid under the Social Security Act.

The provision will be effective for taxable years beginning after December 31, 1983.

Section 324. Treatment of pay after age 62 as wages

Under current law any payment, other than vacation or sick pay, made to an employee after the month in which he or she attains age 62, where the employee did not work for the employer in the period for which such payment is made, is excluded from the definition of wages for both benefit and tax purposes. These excluded payments are frequently called standby and subject-to-call pay.

An allegation as to a stand-by or subject-to-call status must be supported by evidence showing that (1) an employment relationship has continued during the entire period at issue, and (2) a bona fide agreement existed between the employer and employee will be ready to work during that period when asked. Each case alleging stand-by payments is decided on an individual basis. In practice, SSA can rarely successfully challenge such an arrangement as invalid.

Your Committee's bill includes in the statutory definition of wages, payments made to an individual with the expectation that he or she will subsequently render services. This change is effective with respect to calendar years beginning with the sixth month after the date of enactment.

Section 325. Treatment of contributions under simplified employer pensions (SEPs)

Under present law, the Internal Revenue Code excludes from wages for social security tax purposes employer payments to or on behalf of an employee under a simplified employee pension (SEP). However, such employer contributions are treated as covered wages for social security benefit purposes.

Your Committee's bill amends the Social Security Act ot exclude from the definition of covered wages for social security coverage purposes employer contributions to a SEP that are deductible as such by the employer. The bill makes clear that the exclusion applies, for both tax and coverage purposes, only with respect to the employers' contribution ot a SEP, not with respect to the amount equivalent to the employee's contribution to an individual retirement arragnement (IRA).

This provision applies to remuneration paid after December 31, 1983.

Section 326. Effect of changes in names of State and local employee groups in Utah

Under present law, the State of Utah is permitted to extend social security coverage to specific entities listed in the law as separate coverage groups. The names of some of the entities specifically listed in the law have changed since the provision was enacted.

Your Committee's bill amends the provision in the Social Security Act listing entities for which Utah may arrange social security coverage in order to provide that coverage would not be affected by a subsequent change in the name of any of the entities.

Section 327. Effective dates of international social security agreements

Under current law, totalization agreements can only become effective after the expiration of a period during which each House of the Congress has been in session on each of 90 days. This requirement has been interpreted to mean that both Houses of Congress must be in session on a particular day for it to count in the 90-day calculations.

Your Committee's bill shortens this review period by providing that totalization agreements can become effective after the expiration of a period during which only one House of the Congress must be in session on each of 60 days.

Section 328. Technical corrections with respect to withholding of sick pay of participants in multiemployer plans

Present law includes in the definition of wages, for the purpose of withholding of social security and railroad retirement taxes, certain payments made under a sick pay plan to an employee or any of this dependents by a third-party on account of the employee's illness.

Proposed Treasury Regulations require a third-party payor (for example, an insurance company or a multiemployer plan) as well as an employer, to withhold social security or railroad retirement taxes on the sick pay as if the payments are wages. However, the third-party payor is permitted to shift responsibility for the employer's portion of the tax to the last employer for whom the employee worked, proved that the third part payor promptly notifies the last employer of the amount of payments.

Your Committee's bill provides that, in the case of a multiemployer plan, to the extent provided in Treasury Regulations, the plan will be treated as the agent of the employer for whom services are normally rendered. Your Committee intends that the rules relating to acts to be performed by agents contained in present Internal Revenue Code section 3504 shall apply in these cases. Since the plan is merely an agent of the employer for whom services are normally rendered, your committee intends that such employer will continue to bear the ultimate liability for the taxes and that the plan will either be reimbursed for its payment of the employer's share of the tax through the collective bargaining process or will have legal recourse under the normal statutory or common law principles of agency against the employer for taxes paid as his agent. In the absence of an agreement providing otherwise, the last contributing employer shall be considered as the employer for whom services are normally rendered.

The provision applies to remuneration paid after June 30, 1983.

Section 329. Elective compensation

Under a qualified cash or deferred arrangement (Code sec. 401(k)) forming a part of a tax-qualified profit-sharing or stock bonus plan, a covered employee may elect to have the employer contribute an amount to the plan on the employee's behalf or to receive such amount directly from the employer in cash. Amounts contributed to the plan pursuant to the employee's election are treated as employer contributions to the plan and are excluded from the employee's taxable income and social security wage base.

Amounts distributed with respect to an employee under a qualified plan generally are includible in the recipient's income, but are excluded from the social security wage base.

Under an employer's cafeteria plan (Code sec. 125), a covered employee may choose among taxable benefits, which may include cash, or nontaxable benefits. If certain requirements are met, amounts applied under a cafeteria plan toward nontaxable benefits (e.g., accident and health benefits or plan contributions under a qualified cash or deferred arrangement) are excluded from the employee's income and generally from the social security wage base. Taxable benefits chosen by the employee (e.g., cash) are includible in income and generally includible in the wage base.

Tax-sheltered annuities (Code sec. 403(b)) may be purchased on an individual basis for employees of public schools or tax-exempt religious, charitable, and other organizations described in section 501(c)(3). Subject to certain limitations, amounts paid by the employer to purchase the annuity are excluded from the employee's income. A tax-sheltered annuity is typically, but not necessarily, purchased for an employee pursuant to a salary reduction agreement between the employer and employee.

The Internal Revenue Service has ruled that amounts paid for a tax-sheltered annuity pursuant to a salary reduction agreement are includible in the employee's social security wage base, although such amounts are not subject to income tax withholding. The validity of the ruling position is in doubt in light of the Supreme Court decision in *Rowan Companies, Inc.* v. *United States* (see section 330 of the bill).

Amounts distributed under a tax-sheltered annuity contract generally are includible in the recipient's income, but are excluded from the social security wage base.

Generally, if an employee receives cash and then chooses to use these funds for personal savings or benefits, the amount of cash received is subject to FICA. This is true, for example, for contributions to an individual retirement arrangement even if the employer transmits the funds directly to the IRA account.

Under cash-or-deferred arrangements, cafeteria plans, and tax-sheltered annuities, the funds are set aside by individual employees for certain fringe benefits or individual savings arrangements, and thus, your Committee believes that related employer contributions should be included in the FICA base, as is the case for IRA contributions. Otherwise, individuals could, in effect, individually direct the equivalent of cash compensation for their own purposes in order to avoid FICA taxes. This would make the system partially elective and would undermine the FICA tax base.

Under your Committee's bill, an employer's plan contributions on behalf of an employer under a qualified cash or deferred arrangement will be includible in the social security wage base for tax and coverage purposes to the extent that the employee could have elected to receive cash in lieu of the contribution. The provision is intended to apply to elective amounts under the cash or deferred arrangement and not to nonelective amounts contributed by employers to a qualified profit-sharing or stock bonus plan of which the arrangement may be a part. Amounts paid by an employer for a tax-sheltered annuity for an employee will also be includible in the wage base. In addition, amounts subject to an employee's designation under a cafeteria plan will be includible in the social security wage base to the extent that such amounts may be paid to the employee in cash or property or applied to provide a benefit for the employee which is not otherwise excluded from the definition of wages under section 3121 of the Code. These amounts will be subject to FICA at the time employer contribution is made.

These changes apply to remuneration paid after December 31, 1983.

Section 330. Codification of Rowan decision with respect to meals and lodging

Under the Code, amounts which constitute wages for income tax withholding purposes (sec. 3306) and amounts which constitute wages for social security tax purposes (sec. 3121) are separately defined. However, in *Rowan Companies, Inc.* v. *United States,* 452 U.S. 247 (1981), the Supreme Court held that the definition of wages for social security tax purposes and the definition of wages for income tax withholding purposes must be interpreted in regulations in the same manner in the absence of statutory provisions to the contrary.

At issue in *Rowan* was whether the value of meals and lodgings provided employees at the convenience of the employer were wages for social security tax purposes (i.e., were includible in the social security wage base). The value of such employer-provided meals and lodging may be excluded from the income of an employee (sec. 119). Treasury regulations required that the value of the meals and lodging be included in the social security wage base, but excluded such value from the definition of wages subject to income tax withholding. The Supreme Court decision invalidated those Treasury regulations which required that the value of the meals and lodging be included in the social security wage base.

The social security program aims to replace the income of beneficiaries when that income is reduced on account of retirement and disability. Thus, the amount of "wages" is the measure used both to define income which should be replaced and to compute FICA tax liability. Since the social security system has objectives which are significantly different from the objectives underlying the income tax withholding rules, your Committee believes that amounts exempt from income tax withholding should not the exempt from FICA unless Congress provides an explicit FICA tax exclusion.

Your Committee's bill provides that, with the exception of the value of meals and lodging provided for the convenience of the employer, the determination whether or not amounts are includible in the social security wages base is to be made without regard to whether such amounts are treated as wages from income tax withholding purposes. Accordingly, an employee's "wages" for social security tax purposes may be different from the employee's "wages" for income tax withholding purposes. In addition, the bill provides that definition of wages for social security tax and benefit purposes is revised to exclude the value of employer-provided meals and lodging to the extent such value is also excluded from the employee's gross income.

This provision applies to remuneration paid after December 31, 1983.

D. OTHER AMENDMENTS

Section 331. Technical and conforming amendments to maximum family benefit provisions

Under current law, when children are simultaneously entitled to benefits on the records of two or more workers, the maximum family benefits payable on each record are combined for the purposes of determining the benefits payable to those children. The law contains a limit, however, on the highest possible combined maximum family benefit, sometimes referred to as the super maximum. Whenever the wage base increases (in January of every year), the super maximum is recomputed. In addition, each year the super maximum is increased when the cost-of-living adjustment is made in general benefit levels. Under Section 111 of your Committee's bill this increase will occur in December, rather than June as under current law. As a result of this change, families whose benefits are limited by the super maximum could have their benefits unexpectedly increased or decreased each January when the super maximum is recomputed just one month after they had received their cost-of-living adjustment.

To avert this undesirable result, your Committee's bill provides that after initial entitlement, a family's super maximum would be adjusted only one time each year when the cost-of-living increase is provided to everyone on the benefit rolls.

Section 332. Reduction from 72 to 70 of age beyond which no delayed retirement credit can be earned

Under current law, delayed retirement credits are now provided for months from age 65 to age 72 for which benefits are not paid because the worker has substantial earnings from work or does not apply for benefits. These credits are intended to provide partial relief to workers who continue working past age 65 and who forego benefits under the earnings test. The age at which the earnings test no longer applies decreased from 72 to 70 on January 1, 1982. However, delayed retirement credits are still provided for work beyond age 70.

Your Committee's bill provides that for persons who attain age 70 after December 1983, delayed retirement credits will not be given for months in which social security benefits are not paid after age 70. For persons who attain age 70 before January 1984, delayed retirement credits will be granted without regard to the changes in law which result from this section except that no credits would accure for months after December 1983.

Section 333. Relaxation of insured status requirements for certain workers previously entitled to a period of disability

Under current law, workers who are disabled before age 31 may qualify for disability benefits on the basis of a less stringent insured status requirement than older workers. However, such a worker who recovers from his disability and subsequently becomes disabled again at age 31 of later may have difficulty establishing entitlement to disability benefits at that time. This occurs because he has not had sufficient time to obtain the necessary 20 quarters of coverage before his subsequent disability. It appears that this situation was not contemplated, in 1967, when the law was changed to provide a special insured-status requirement for young workers.

Your Committee's bill provides that a worker who had a period of disability which began before age 31, subsequently recovered, and then became disabled again at age 31 or later could quality again for disability benefits if he/she had quarters of coverage in half the calendar quarters after age 21 and through the quarter in which the later period of disability began (up to a maximum of 20 out of 40 quarters). Changes made by this section are effective generally for applications filed after enactment.

Section 334. Protection of benefits of illegitimate children of disabled beneficiaries

Under present law, the first month for which certain benefits are paid is delayed from the month during which the individual satisfied the various entitlement conditions to the first month throughout which those conditions were satisfied. This provision does not apply to the benefits of illegitimate children of retired beneficiaries. However, this provision does apply to the illegitimate children of disabled workers.

This disparity is removed by your Committee's bill which provides social security monthly benefits to the illegitimate child of a disabled worker for a month in which the child satisfied all other entitlement conditions, but was not eligible for benefits because the acknowledgement or court decree or order establishing parenthood occurred later than the first day of that month. Changes made by this section are effective upon enactment.

Section 335. One-month retroactivity of widow's and widower's insurance benefits

Under current law, the payment of retroactive benefits is prohibited if such payment would require the lowering of future benefits. A perceived inequity occurs when an insured individual dies so late in the month that the survivor is not able to file for benefits in that month. In many of these cases, the actuarial reduction in future benefits is unimportant, from the survivor's standpoint, compared with the survivor's need to receive a retroactive benefit promptly.

Your Committee's bill, allows an aged widow or widower to receive actuarially reduced benefits for the month in which the insured spouse died, if the application is filed in the following month, even though the retroactive payment would result in lower future monthly benefits than would be the case if benefits were not paid retroactively. This provision is effective for applications filed after the second month following the month of enactment.

Section 336. Nonassignability of benefits

Since 1935 the Social Security Act has prohibited the transfer or assignment of any future social security or SSI benefits payable and further states that no money payable or rights existing under the Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Based on the legislative history of the Bankruptcy Reform Act of 1978, some bankruptcy courts have considered social security and SSI benefits listed by the debtor to be income for purposes of a Chapter XIII bankruptcy and have ordered SSA in several hundred cases to send all or part of a debtor's benefit check to the trustee in bankruptcy.

Your Committee's bill specifically provides that social security and SSI benefits may not be assigned notwithstanding any other provisions of law, including P.L. 95-598, the "Bankruptcy Reform Act of 1978". This provision would be effective upon enactment.

Section 337. Use of death certificate to prevent erroneous benefit payments to deceased individuals

There are currently no well-developed procedures or arrangements to permit SSA to determine on a timely basis when a beneficiary has died.

Your Committee's bill provides authority for the Secretary to contract with states for death certificate information. This information would be matched with SSA benefit records to assure that benefit payments are promptly terminated when the beneficicary dies.

Section 338. Public pension offset

Under current law, persons who became eligible for a public pension prior to December 1982 and who did not meet the conditions of the public pension exception clause are subject to a dollar-for-dollar offset of their social security benefit by the amount of their public pension. This 100 percent offset will also apply to all persons becoming eligible for a public pension after June 1983.

Under a provision adopted in 1982 (P.L. 97-455), only persons who become eligible for a public pension from December 1982 through June 1983 and who meet a "one-half support" dependency test are exempt from the offset.

Your Committee's bill provides that for persons who become eligible for their public pension after June 1983, the amount of the public pension used for purposes of the offset against social security benefits would be one-third of the public pension.

Section 339. Study concerning the establishment of the Social Security Administration as an independent agency

Your Committee's bill includes a provision which would authorize the appointment of a panel of experts to study the feasibility of establishing the Social Security Administration as an agency independent of the Department of Health and Human Services or any other cabinet department, and the steps necessary to implement such a change. In its final report in March, 1981, the National Commission on Social Security recommended the creation of a separate agency responsible for administering the social security programs. More recently, the National Commission on Social Security Reform stated its belief that making the Social Security Administration an independent agency would be logical. However, since the issues involved in such an administrative reorganization are complex, the Commission recommended a feasibility study. A minority of the Commission were of the opinion that any study should be confined to the details of implementing such a change.

Your Committee agrees that although there are strong arguments in support of an independent Social Security Administration, a study of the ramifications of such a change is necessary. The study should focus on, but not be limited to, how such a reorganization would affect the following: social security beneficiaries and the general public; relationships between the Social Security Administration and other organizations, including other government agencies; the makeup of the leadership of such an agency; the need for the statutory quadrennial Advisory Council; what progams would be administered by the agency; and appropriation of operating funds for the agency.

Your Committee's interest in having such a study has grown out of concern that the agency has been subject to repeated administrative problems caused at least in part by the agency's connection with the Department of Health, Education and Welfare (later Health and Human Services) and by the involvement of the Office of Management and Budget in routine administrative functions. It also seems clear that SSA may not have received needed administrative resources because of priorities set by HHS and OMB without regard to the basic function of the agency. Problems have also been created by repeated reorganizations, several different commissioners within the last 10 years, and periods of time without a permanent Commissioner. Your Committee, therefore, views the establishment of an independent Social Security Administration as a serious goal, and the study mandated by the bill is to focus on both the feasibility of such a step and the changes necessary to accomplish it.

The bill provides that the panel of experts consist of three individuals who are widely recognized as experts in the field of government administration. The panel, which would be appointed jointly by the Chairmen of the House Committee Ways and Means and Senate Finance Committee, is required to file its report not later than April 1, 1984.

Section 340. Conforming changes in medicare premium provisions to reflect changes in the cost

Under current law, the medicare monthly premium for part B physician coverage (SMI) is deducted from the benefit checks of individuals receiving social security cash benefits. In addition, premiums are increased each July first, the date on which benefits are increased to reflect price increases in the economy (COLA). Since the premium cannot be increased by an amount greater than the amount of the general benefit increase, the increased premium cannot result in a decreased monthly benefit.

In order to prevent beneficiaries' checks from being decreased in July as a result of the changes, as provided in Section III of your Committee's bill, in the month in which the general benefit increase is effective, the SMI premium will not be adjusted until January 1, 1984.

2. SECTION-BY-SECTION EXPLANATION—TITLE III

Section 301. Float periods

Section 301(a) of the bill requires that the Secretaries of Health and Human Services and the Treasury shall jointly undertake as soon as possible a thorough study of the "float period" between the issuance of Social Security benefit checks by the Treasury and the transfer of funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund of amounts to compensate the general fund for the amount of the checks so issued.

Section 301(b)(1) of the bill requires that the study mandated by subsection (a) include an investigation of the desirability and feasibility of (1) maintaining the float periods allowed at the time of enactment and (2) making adjustments in such float periods.

Section 301(b)(2) requires a separate investigation of the feasibility and desirability of providing, as a specific adjustment in the float periods, for the transfer each day to the general fund from the trust funds of amounts equal to the amounts of the benefit which are paid by the Federal Reserve Banks on such day.

Section 301(c) requires that in conducting the study mandated by subsection (a) the Secretaries shall consult, as appropriate, the Director of the Office of Management and Budget, who shall provide such information and assistance as may be required in the study. The Secretaries shall also solicit the views of other appropriate officials and organizations.

Section 301(d)(1) requires that not later than 6 months after enactment the Secretaries shall submit to the President and the Congress a report of the findings of the investigation required by subsection (b)(1) and the Secretary of the Treasury shall by regulation adjust the float periods as may have been found necessary or appropriate in such investigation.

Section 301(d)(2) requires that no later than 12 months after enactment the Secretaries shall also submit to the President and the Congress a report of the findings of the separate investigation required by subsection (b)(2) of the specific adjustment in the float periods described therein, together with their recommendations, and that to the extent necessary or appropriate to carry out such recommendations, the Secretary of the Treasury shall by regulations make adjustments with respect to the float periods described in such subsection.

Section 302. Interest on late State deposits

Section 302(a) of the bill changes the rate of interest charged States on late payment of Social Security taxes specified in section 218(j) of the Social Security Act from 6 percent per year to an amount based on the rate of interest earned by current trust fund investments.

Section 302(a)(1) of the bill makes a change in section 218(j) of the Act to conform it to the amendment made by section 302(a)(3).

Section 302(a)(2) of the bill provides that instead of an interest rate of 6 percent per annum, the rate will be determined under section 218(j)(2).

Section 302(a)(3) of the bill adds a new paragraph (2) to section 218(j). The new paragraph provides that the rate of interest charged States on late payment of Social Security Taxes will be increased to 9 percent per annum for payments made during the 6-month period beginning January 1, 1984. For subsequent 6-month periods beginning July 1 and January 1 thereafter, the rate of interest will be an annual rate equal to the average (rounded to the nearest full percent, or the next higher percent if it is a multiple of 0.5 percent but not of 1.0 percent) of the annual rates of interest applicable to the special obligations issued to the trust funds (in accordance with section 201(d)) during a prescribed base period. The base period for the rate effective on January 1 of a year is the 6-month period ending on the immediately preceding September 30 and the base period for the rate effective on July 1 of a year is the 6-month period ending on the immediately preceding March 31. The interest rates will be determined no later than 15 days after the end of the base period.

Section 302(b) provides that the amendments made by this section apply with respect to payments made after December 31, 1983, under a State's coverage agreement with the Secretary pursuant to section 218 of the Act.

Section 303. Trust fund investment procedures

Section 303 of the bill requires the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to redeem most current trust fund investments and make all future investments in a new type of Treasury public debt obligation bearing interest at a rate that varies from month to month. For each month, the interest rate on the new type of obligation will be equal to the higher of (1) the average market yield over the preceding month on all public-debt obligations (other than "flower bonds") with maturities of more than 4 years or (2) the average market yield for similar obligations with 4 years or less to maturity. This section also requires that annual reports of the Social Security Boards of Trustees to the Congress include a certification by the chief actuary of the Social Security Administration that the reports meet generally accepted standards within the actuarial profession. Lastly, this section allows the 1983 annual reports to be filed any time before 45 days after enactment.

New variable-interest obligations

Section 303(a) amends section 201(d) of the Social Security Act to provide that the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall invest such portion of the trust funds as is not required to meet current withdrawals in public debt obligations which shall be issued exclusively for the trust funds and shall be redeemable at par plus accrued interest at any time. The amended subsection further provides that such obligations shall bear interest in any month (including the month of issue) at a rate, rounded to the nearest one-eighth of 1 percent equivalent to the higher of (1) the average market yield over the preceding month on all marketable interest-bearing Federal obligations (other than "flower bonds") then forming part of the public debt which have maturities of more than 4 years or (2) the average market yield over the preceding month on similar obligations which have maturities of 4 years or less. The amended subsection also defines the term "flower bond" to be a United States Treasury bond issued before May 4, 1971 that may be redeemed at par in advance of maturity upon the death of the holder of the obligation for the purpose of payment of estate taxes.

Section 303(b) of the bill amends section 1817(c) of the Social Security Act to establish investment requirements for the Federal Hospital Insurance Trust Fund identical with those established in section 303(a) of the bill for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

Section 303(c) of the bill amends section 1841(c) of the Social Security Act to establish investment requirements for the Federal Supplementary Medical Insurance Trust Fund identical with those established in section 303(a) of the bill for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

Transition to new investment procedures

Section 303(d) provides that at the time the amendments made by section 303 of the bill become effective, the Secretary of the Treasury shall redeem at par plus accrued interest all outstanding obligations issued exclusively to the four trust funds, shall redeem at market rates all "flower bonds" and shall reinvest all proceeds from the redemptions as set forth in subsections 303(a), (b) and (c) of the bill. Section 303(d) further provides that any marketable obligations, other than "flower bonds", shall be held by the trust funds until maturity unless the assets thereof are needed to meet benefit obligations. In addition, section 303(d) repeals sections 202(e), 1817(d) and 1841(d) of the Social Security Act, which deal with current trust fund redemption procedures.

Section 303(e) of the bill amends sections 201(c), 1817(b) and 1841(b) of the Social Security Act to require that the annual reports of the Boards of Trustees of the trust funds shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost-estimates used are reasonable.

This section also provides that the 1983 annual reports of the Boards of Trustees of the trust funds, notwithstanding sections 201(c)(2), 1817(b)(2) and 1841(b)(2) of the Social Security Act, may be filed at any time not later than 45 days after the date of enactment.

Effective date

Section 303(f) provides that the amendments made by this section shall take effect on the first day of the first month which begins more than 30 days after the date of enactment.

Section 304. Budgetary treatment of trust fund operations

Section 304 of the bill provides for adding a new section 710 to title VII of the Social Security Act relating to budgetary treatment of Social Security trust fund operations.

Section 304(a)(1) adds a new section 710 to the Social Security Act which provides that the disbursement of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Funds, including the taxes imposed under sections 1401, 3101 and 3111 of the Internal Revenue Code of 1954, shall be set forth separately in such budgets.

Paragraph (2) of section 304(a) of the bill provides that the amendment made by paragraph (1) shall apply with respect to fiscal years beginning on or after December 1, 1984, and ending on or before September 30, 1988, except that such amendment shall apply to the fiscal year beginning on October 1, 1983, to the extent that it relates to the congressional budget.

Section 304(b) amends section 710 for fiscal years beginning on or after October 1, 1988, to provide that the receipts and the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund and the Federal Hospital Insurance Trust Fund and the taxes imposed under sections 1401, 3101 and 3111 of the Internal Revenue Code of 1954 shall not be included in the totals of the budget of the United States Government as submitted by the President and in the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

Subsection (b) of the amended section 710 further provides that the disbursements of the Federal Supplementary Medicare Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Fund shall be set forth separately in such budgets.

Section 311. Divorced husbands

Section 311 of the bill provides benefits based on a retired, disabled, or deceased woman's Social Security earnings record for a divorced husband or surviving divorced husband on the same basis as benefits are now provided for women in like circumstances.

Section 311(a)(1) of the bill amends section 202(c)(1) of the Act, which provides husband's insurance benefits based on a retired or disabled woman's Social Security earning's record, to provide benefits for the divorced husband age 62 or over of a retired or disabled worker.

Section 311(a)(2) of the bill further amends section 202(c)(1) of the Act by adding a new subparagraph (C) which provides that a divorced husband (like a divorced wife) must not be married at the time he applies for benefits in order to become entitled to benefits based on his former wife's earnings. This section also provides that benefits for a husband or divorced husband shall terminate in the same situations as benefits for wives and divorced wives are terminated.

Section 311(a)(3) of the bill makes a conforming change in section 202(c)(3) of the Act to provide that, except that, except as provided in section 202(q) of the Act, the amount of a divorced husband's monthly benefit shall be equal to one-half the primary insurance amount of his former wife.

Section 311(a)(4) of the bill further amends section 202(c) of the Act by adding a new paragraph (4) to provide that the entitlement to benefits or a divorced husband shall not be terminated by reason of his marriage to a woman receiving benefits as an adult disabled child, a divorced wife, a widow, a mother, or a parent, as is now the case for divorced wives.

Section 311(a)(5) of the bill further amends section 202(c) of the Act to make reference to divorced husbands as well as husbands.

Section 311(a)(6) of the bill amends section 202(b)(3)(A) of the Act, which allows continuation of benefits for divorced wives who marry certain other Social Security beneficiaries, to provide that an individual's entitlement to benefits as a divorced wife shall not be terminated by reason of her marriage to a person receiving benefits as a divorced husband.

Section 311(a)(7) of the bill makes a conforming change in section 202(c)(1)(D) of the Act.

Section 311(a)(8) of the bill makes a conforming change in section 202(d)(5)(A) of the Act.

Section 311(b)(1) of the bill amends section 202(f)(1) of the Act, which provides widower's insurance benefits based on a deceased woman's Social Security earnings record, to provide widow's insurance benefits for the surviving divorced husband, age 60 or over, of a deceased worker.

Sections 311(b) (2), (3), and (4) of the bill make conforming changes in section 202(f) (widower's insurance benefits) of the Act to add references to a surviving divorced husband to such section as it currently applies to a widower.

Sections 311(b)(5) and (6) of the bill amend sections section 202(g)(3)(A), and 202(h)(4)(A) of the Act, respectively, to provide that an individual's entitlement to benefits as a widow, mother or parent shall not be terminated by reason of her marriage to a person receiving benefits as a divorced husband.

Section 311(c)(1) of the bill amends section 216(d) of the Act to define the terms "divorced husband" and "surviving divorced husband" as a man divorced from a retired or disabled worker, or from an individual who has died, but only if he was married to such individual for 10 years immediately before the divorce. The definition and duration-of-marriage requirement are equivalent to the current definition of the requirement for a divorced wife and surviving divorced wife in section 216(d).

Section 311(c)(2) of the bill amends the heading of section 216(d) of the Act by changing it from "Divorced Wives; Divorce" to "Divorced Spouses; Divorce."

Section 311(d)(1) of the bill amends section 205(b) of the Act, which relates to the procedural rights of individuals applying for benefits, to make a conforming change to add divorced husbands and surviving divorced husbands to the list of individuals who may request a hearing.

Section 311(d)(2) of the bill amends section 205(c)(1)(C) of the Act to make a conforming change by including a surviving divorced husband in the definition of a "survivor."

Section 312. Remarriage of surviving spouse before age of eligibility

Section 312 of the bill amends section 202(f)(1)(A) of the Act to strike out the requirement for entitlement to widower's insurance benefits that a widower must not have remarried before age 60 and to require instead that he be unmarried at the time he applies for benefits, as is now the case for widow's benefits.

Section 313. Illegitimate children

Section 313 of the bill provides that an illegitimate child's status for purposes of entitlement to child's insurance benefits shall be determined with respect to the child's mother in the same way as it is now determined with respect to the child's father. The section amends the Social Security Act to conform with a 1974 Supreme Court decision in *Jiminez* v. *Weinberger,* which privides that certain illegitimate children can be entitled to benefits based on a disabled worker's earnings if the relationship and/or living with or support requirements in the statute are met at the time the child applies for benefits instead of before the worker becomes disabled. The section also makes similar changes with respect to children of retired workers, who are not covered by the Court's decision.

Section 313(a) of the bill amends section 216(h)(3) of the Act to provide that a woman's illegitimate child who cannot inherit from her under applicalbe intestate property law and who cannot be deemed to be her child for such purposes under other provisions of such section 216(h)(3) shall nevertheless be deemed to be her child for Social Security benefit purposes if the woman has been decreed by a court to be the child's mother, or, alternatively, the woman is shown by evidence satisfactory to the Secretary of Health and Human Services to be the child's mother and was living with the child or contributing to the child's support at the time the child applies for benefits.

Section 313(b) of the bill amends section 216(h)(3)(A)(ii) of the Act to provide, in the case of a child of a retired worker, that the living with or support requirements be met at the time the child applies for benefits, rather than at the time the worker becomes entitled or reaches age 65 as under present law.

Section 313(c) of the bill amends section (h)(3)(B)(ii) of the Act to provide that, in the case of a child of a disabled worker, the living with or support requirement be met at the time the child applies for benefits, rather than at the time of the worker's period of disability began as under present law.

Section 313(d) of the bill further conforms section 316(h)(3) to provide that a child may be entitled to benefits under this section based on the earnings of either a male and female parent.

Section 314. Transitional insured status

Section 314 of the bill amends section 227 of the Social Security Act, which provides benefits for certain people who do not meet the regular insured status requirements, to provide benefits for husbands and widowers where, under comparable circumstances, benefits are paid under present law to wives and widows.

Section 314(a) of the bill amends section 227(a) of the Act to provide for the payment of benefits to husbands.

Section 314(b) of the bill amends sections 227(b) and 227(c) of the Act to provide for the payment of benefits to widowers.

Section 314(c) of the bill amends section 216 of the Act to provide a new subsection 216(a), which defines "spouse" as a husband or a wife as defined in subsection 216(b) or (f), respectively, and "surviving spouse" as a widow or widower as defined in subsection 216(c) or (g), respectively.

Section 315. Equalization of benefits under section 228

Section 315 of the bill amends section 228 of the Social Security Act, which provides special payments for certain uninsured individuals, to provide that where both members of a couple are eligible for benefits under section 228 the wife will get an amount equal to the full payment that the husband now gets, rather than an amount equal to one-half of that amount as under present law.

Section 315(a) of the bill eliminates the provisions in section 228(b) of the Act which provide that where a husband and a wife are both eligible for a benefit under section 228, the amount payable to the wife shall be one-half the amount payable to the husband. Thus, the full benefit amount will be payable to each member of the couple.

Section 315(b) of the bill amends section 228(c)(2) of the Act to provide that where only one member of a couple is entitled to a benefit under this section and the other member is eligible for a governmental pension, the full benefit payable under this section will be reduced by the amount that the other member's governmental pension exceeds the full benefit amount (rather than 50 percent of that amount) determined under this section.

Section 315(c) of the bill amends section 228(c)(3) of the Act to provide that where both members of a couple are entitled to benefits under this section and the husband is eligible for a governmental pension, the benefit payable to the husband will be reduced by the amount of his governmental pension. Then the benefit of his wife will be reduced by the amount, if any, that the husband's governmental pension exceeds the full amount of her benefit determined under this section. If the wife is eligible for a governmental pension, the benefit of her husband determined under this section will be simi[illegible] reduced.

Section 31[illegible](d) of the bill further amends section 228 of the Act by substituting pronouns referring to both male and female genders for pronouns referring to the male gender only, wherever they appear.

Section 315(e) of the bill provides that the Secretary will increase the benefit amounts specified in section 228 of the Social Security Act to take account of any general benefit increases enacted or cost-of-living adjustments provided under section 215(i) which have occurred since June 1974 or will occur in the future.

Section 316. Father's benefits

Section 316 of the bill provides benefits based on a retired, disabled or deceased woman's Social Security earnings record for a husband, divorced husband, widower, or surviving divorced father caring for a minor or disabled child beneficiary on the same basis as benefits are provided for women in the like circumstances.

Section 316(a) of the bill amends section 202(g) of the Act to provide father's insurance benefits based on a deceased worker's Social Security earnings record for a widower or surviving divorced father caring for a minor or disabled child beneficiary on the same basis as are now provided for women.

Section 316(b) of the bill changes the heading of section 202(g) of the Act from "Mother's Insurance Benefits" to "Mother's and Father's Insurance Benefits".

Section 316(c) of the bill amends section 216(d) of the Act (as amended by section 311(c)(1) of this bill) to provide definitions of "surviving divorced father" and "surviving divorced parent." A surviving divorced father is defined as a man divorced from an individual who has died if (a) he is the father of her son or daughter, or (b) he legally adopted her son or daughter, or (c) she legally adopted his son or daughter while he was married to her and while the son or daughter was under age 18, or (d) he was married to her at the time both of them legally adopted a child under age 18. A surviving divorced parent is defined as either a surviving divorced mother or surviving divorced father.

Section 316(d) of the bill makes a conforming change in section 202(c)(1) of the Act (as amended by section (311(a) of this bill) in the nature of a cross reference to section 202(s) of the Act to provide that a man may not be entitled to husband's insurance benefits before age 62 where the only entitled child he has in his care is over age 16 and is not disabled.

Section 316(e) of the bill amends section 202(c)(1)(B) of the Act to provide that a retired or disabled worker's husband under age 62 who is caring for an entitled child beneficiary may qualify for husband's insurance benefits.

Section 316(f) of the bill amends section 202(c)(1) of the Act (as amended by section 311(a) of the bill) to provide that husband's insurance benefits will terminate when a man under age 62 is no longer caring for an entitled child beneficiary who has not attained age 16 and is not disabled.

Section 316(g) of the bill amends section 202(f)(1)(C) of the Act to provide for automatic conversion from father's insurance benefits to widower's insurance benefits at age 65.

Section 316(h) of the bill makes a conforming change in section 202(f)(5) of the Act (as redesignated by section 131(b)(3)(A) of the bill) to add an 84-month period after entitlement to father's benefits ends as an additional period of time during which a widower's disability may begin. This additional period of time is available to widows under present law.

Section 317. Effect of marriage on childhood disability benefits and on other dependent's or dependent survivor's benefits

Section 317 of the bill amends section 202 of the Social Security Act to provide in certain cases that the termination of a male individual's entitlement to benefits based on a disability shall not cause his spouse's entitlement to dependent's or survivor's benefits to be terminated.

Section 317(a) strikes out that part of section 202(d)(5) of the Act that provides for the termination of benefits to a female childhood disability beneficiary married to a childhood disability or disabled worker beneficiary whose benefits are terminated because he recovers or engages in substantial gainful work. (Present law includes no provision for terminating the benefits of a male childhood disability beneficiary under similar circumstances.) Subsection (a) also amends sections 101(b)(3), 202(e)(3), 202(g)(3) and 202(h)(4) to provide for continuing the wife's, widow's or parent's insurance benefits of a woman married to a childhood disability beneficiary whose benefits are terminated because he recovers or engages in substantial gainful work.

Section 317(b) of the bill provides that the amendment made by subsection (a) shall be effective for terminations in months after the month of enactment.

Section 318. Credit for certain military service

Section 318 of the bill amends section 217(f) of the Social Security Act to extend its provisions to widowers. Under the present section 217(f), widows and children (but not widowers) may waive the right to a civil service survivor's authority and instead receive credit for military service prior to 1957 in determining eligibility for, or the amount of, Social Security survivors' benefits.

Section 319. Conforming amendments

Section 319(a) of the bill amends section 202(b)(3)(A) of the Act (as amended by section 311(a)(6) of the bill), to provide that the entitlement to benefits of a divorced wife shall not be terminated by reason of her marriage to a man entitled to father's insurance benefits.

Section 319(b) of the bill amends section 202(q)(3) of the Act to provide that the old-age or disability insurance benefits of a surviving divorced husband shall be reduced to take account of his prior receipt of reduced survivor's benefits.

Section 319(c) of the bill amends section 202(q)(5) of the Act to provide that the benefits of a husband or widower shall not be actuarially reduced for any month in which he has a child under age 16 in his care.

Section 319(d)(1) of the bill amends section 202(q)(6)(A) of the Act (as amended by section 134(a)(2) of this bill) to extend to an individual entitled to husband's insurance benefits present-law provisions relating to certificates of election to receive actuarially reduced benefits to a spouse who has an entitled minor or disabled child beneficiary in his or her care.

Section 319(d)(2) amends section 202(q)(7) to provide that a husband or widower (like a wife or widow) who gets reduced benefits because he elected to receive benefits before he reached age 65 to adjust the reduction period subsequently to take account of months the worker's child was in his or her care.

Section 319(e)(1) of the bill amends section 202(s)(1) of the Act by providing a reference to section 202(c)(1) of the Act (as amended by section 316(d) of this bill) to preclude entitlement of a man to husband's insurance benefits before age 62 where the only entitled child he has in his care is over age 16 and not disabled.

Section 319(e)(2) of the bill amends section 202(s)(2) of the Act by providing a reference to section 202(c)(4) (as amended by section 311(a)(4) of this bill) to provide that the entitlement to benefits of a divorced husband shall not terminate by reason of his marriage to a person age 18 or over entitled to child's insurance benefits only if the child was under a disability.

Section 319(e)(3) of the bill amends section 202(s)(3) of the Act (as amended by section 131(c)(2) of this bill) by including references to subsection 202(c)(4) (as added by section 311(a)(4) and amended by section 317(a) of the bill) and subsection 202(f)(4) (as amended by sections 311(f)(5) and 317(b) of the bill) to provide that for certain beneficiaries, marriage to a childhood disability beneficiary shall be deemed not to have occurred.

Section 319(f) of the bill amends section 203(b) (as amended by section 132(b) of the Act) of the Act by inserting a reference to father's benefits to provide for deductions on account of earnings of his retired-worker spouse.

Section 319(g) of the bill amends section 203(c) of the Act to include husbands and fathers in the provision that authorizes the Secretary to make deduction from benefits on account of failure to have a child in his care and in the provision for deductions from benefits on account of noncovered work outside the United States.

Section 319(h) of the bill amends section 203(d) of the Act to authorize deductions from the benefits of a man getting benefits as a divorced husband or widower getting father's insurance benefits who is married to a retired worker engaged in noncovered work outside the United States, where such deductions are now authorized for female beneficiaries in similar circumstances.

Section 319(i)(1) of the bill amends section 205(b) of the Act (as amended by section 311(d)(1) of the bill), as it relates to the procedural rights of indivudals applying for benefits, to include surviving divorced fathers among the individuals who can request a hearing.

Section 319(i)(2) of the bill amends section 205(c)(1)(C) of the Act (as amended by section 311(d)(2) of the bill) to include a surviving divorced father in the definition of "survivor" for purposes of the provisions of section 205(c) that relate to informing an individual or his survivor of the amounts of such individual's wages and self-employment income, and of the periods during which such wages were paid and such income was derived, shown in records maintained by the Secretary.

Section 319(j) and (k) of the bill amend sections 216(f)(3)(A) and 216(g)(6)(A) of the Act, respectively to allow a man who was entitled or potentially entitled to husband's insurance benefits based on the earnings of his former wife in the month before his marriage to another individual not to have to meet the 1-year duration-of-marriage requirement for husband's insurance benefits based on such other individual's earnings.

Section 319(l) of the bill amends section 222(b)(1) of the Act to provide for deductions from the benefits of a disabled surviving divorced husband under age 60 who refuses to accept rehabilitation services, as is now true for other such disabled dependents.

Section 319(m) of the bill amends section 222(b)(2) of the Act to authorize deductions from the benefits of a man entitled to father's insurance benefits who is married to a disability insurnace beneficiary if she refuses to accept rehabilitation services and has deductions made from her benefits (as is now true for mother's insurance benefits).

Section 319(n) of the bill amends section 222(b)(3) of the Act to authorize deductions from the benefits of a man getting benefits as a divorced husband based on the earnings of a disability insurance beneficiary if she refuses to accept rehabilitation services and has deductions made from her benefits (as is now true for other such dependent beneficiaries).

Section 319(o) of the bill amends section 223(d)(2) of the Act to make the definition of disability for widows, surviving divorced wives and widowers, in present law also apply to surviving divorced husbands.

Section 319(p) of the bill amends section 225 of the Act to extend the Secretary's authority to suspend benefits of a surviving divorced husband who is receiving benefits based on disability if he believes that a person is no longer under a disability, (as is now the case for other benefits based on disability).

Section 319(q)(1) of the bill amends section 226(e)(3) of the Act to provide that, for purposes of entitlement to hospital insurance benefits, a person entitled to father's insurance benefits will be deemed to have filed for disabled widower's benefits on the basis of his application for hospital insurance benefits, in the same manner as persons entitled to mother's insurance benefits may not be deemed to have filed for disabled widow's benefits.

Section 319(q)(2) of the bill amends section 226(e)(3) of the Act to provide that, for purposes of determining an individual's entitlement of hospital insurance benefits under the preceding section, an individual will, upon furnishing proof of disability within 12 months after enactment, be deemed to have been entitled to widow's or widower's benefits as of the time they would have been entitled if timely application had been made.

Section 320. Effective date

Section 320(a) provides that, except as otherwise provided, part B of title III of the bill shall be effective with respect to Social Security benefits payable for months after the month of enactment. Section 320(b) provides that nothing in any amendment made under part B shall affect benefits paid prior to enactment as a result of a court decision (i.e., benefits for divorced husbands; surviving divorced husbands; remarriage of a widower before attaining age 60; and benefits for young fathers, young surviving divorced fathers and husbands caring for child beneficiaries).

Section 321. Coverage of employees of foreign affiliates of American employers

Section 321(a)(1) of the bill amends section 3121(1)(1) of the Internal Revenue Code of 1954 (which provides that a domestic corporation may enter into an agreement with the Secretary of the Treasury to permit Social Security coverage of U.S. citizens working abroad for a foreign corporation which is a subsidiary of the domestic corporation) to provide that (1) coverage shall also be provided for U.S. residents, and (2) that any American employer, not just a corporation may enter into such agreement.

Section 321(a)(2) of the bill amends section 3121(1)(8) of the Code (defining "foreign subsidiary") to define a foreign affiliate of an American employer as any foreign entity (not just a foreign corporation) in which such American employer has not less than a 10 percent interest. The bill further provides that an American employer has a 10 percent interest in any entity if the employer has such interest directly (or through one or more entities): (1) in the case of a corporation, in the voting stock thereof, and, (2) in the case of any other entity, in the profits thereof.

Section 321(b) of the bill amends clause (B) of section 210(a) of the Social Security Act (defining "employment") to conform to the amendment made by section 321(a)(1) of the bill.

Section 321(c) of the bill amends section 406(a) of the Code (relating to treatment of certain employees of foreign subsidiaries for pension, profit-sharing and stock bonus purposes) to extend its provisions to U.S. residents working abroad for a foreign affiliate of an American employer.

Section 321(d) of the bill amends section 407(a) of the Code (relating to certain employees of domestic subsidiaries engaged in business outside the United States) to extend its provisions to U.S. residents who are employees of domestic subsidiaries engaged in business outside the United States.

Section 321(e) of the bill amends sections 3121(1), 406, 1402(b) and 6413(c) of the Code to conform to the amendment made by section 321(a)(1) of the bill.

Section 321(f)(1) of the bill provides that the amendments made by section 321 of the bill (other than subsection (d)) shall apply to new agreements entered into after the date of enactment or, at the election of any American employer, shall apply to any agreement entered into on or before the date of enactment. Any such election shall be made in accordance with any regulations established by the Secretary of the Treasury.

Section 321(f)(2) of the bill provides that the amendments made by section 321(d) shall apply to plans established after the date of enactment or, at the election of any domestic parent corporation, shall apply to any plan established on or before the date of enactment. Any such election shall be made in accordance with any regulations established by the Secretary of the Treasury.

Section 322. Extension of coverage by international social security agreement

Section 322(a) of the bill provides that services designated as employment under an international Social Security agreement entered into under section 233 of the Social Security Act are covered and taxed for Social Security purposes.

Section 322(a)(1)(A) of the bill makes a change in section 210(a) of the Act to conform it to the amendment made by section 322(a)(1)(B).

Section 322(a)(1)(B) of the bill amends section 210(a) of the Social Security Act to add a new clause (C) which provides that the definition of "employment" includes service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an international Social Security agreement.

Section 322(a)(2) of the bill amends section 3121(b) of the Internal Revenue Code of 1954 to conform to the amendments made by section 322(a)(1) of the bill.

Section 322(b) provides that net earnings from self-employment derived by a nonresident alien individual are covered and taxed for Social Security purposes as provided for under an international Social Security agreement.

Section 322(b)(1) of the bill amends section 211(b) of the Act to provide that the definition of "self-employment income" for Social Security purposes includes net earnings from self-employment derived by a nonresident alien individual as provided for under an international Social Security agreement.

Section 322(b)(2) of the bill amends section 1402(b) of the Code to conform to the amendment made by section 322(b)(1) of the bill.

Section 322(c) of the bill provides that the amendments made by subsections (a) and (b) are effective for taxable years beginning on or after enactment.

Section 323. Treatment of certain service performed outside the United States

Section 323(a) of the bill provides that services performed outside the United States by a U.S. resident for an American employer are covered and taxed for Social Security purposes.

Section 323(a)(1) of the bill amends section 3121(b) of the Internal Revenue Code of 1954 to provide that the definition of "employment" for Social Security tax purposes includes service performed outside the United States by U.S. residents for American employers.

Section 323(a)(2) of the bill amends section 210(a) of the Act to provide that the definition of "employment" for Social Security coverage purposes includes service performed outside the United States by U.S. residents for American employers.

Section 323(b) of the bill amends the Act to provide that the exclusion from gross income for income tax purposes of certain foreign earned income (in accordance with section 911(a)(1) of the Internal Revenue Code of 1954) shall not apply in computing net earnings from self-employment for Social Security purposes.

Section 323(b)(1) of the bill amends section 1402(a)(11) of the Code by providing that income described in section 911(a)(1) of the Code cannot be excluded from gross income in computing net earnings from self-employment.

Section 323(b)(2)(A) of the bill amends section 211(a)(10) of the Act to provide that foreign earned income excluded under section

911(a)(1) of the Code shall not be excluded from gross income in computing net earnings from self-employment for Social Security purposes.

Section 323(b)(2)(B) of the bill amends section 211(a)(10) of the Act to provide that, with respect to taxable years beginning after December 31, 1981 and before January 1, 1984, an individual described in 911(d)(1)(B) of the Code (a citizen or resident of the United States who is present in a foreign country during at least 330 full days of any period of 12 consecutive months) cannot exclude foreign earned income from gross income for purposes of determining net earnings from self-employment for purposes of Social Security coverage.

Section 323(c)(1) of the bill provides that the amendments made by section 323(a) of the bill apply to remuneration paid after December 31, 1983.

Section 323(c)(2) of the bill provides that the amendments made by section 323(b) of the bill (except for the amendment made by section 323(b)(2)(B)) apply to taxable years beginning after December 31, 1983.

Section 324. Treatment of pay after age 62 as wages

Section 324(a) of the bill repeals section 209(i) of the Social Security Act which excludes from the definition of wages for Social Security purposes any payment (other than vacation or sick pay) made to an employee after the month in which he or she attains age 62 if the employee did not work for the employer in the period for whch such payment is made.

Section 324(b) of the bill repeals section 3121(a)(9) of the Code to conform to the amendment made by section 324(a) of the bill.

Section 324(c) of the bill provides that the amendments made by this section apply with respect to calendar years beginning more than 6 months after enactment.

Section 325. Treatment of contributions under simplified employee pensions

Section 325(a) of the bill amends section 3121(a)(5)(D) of the Internal Revenue Code of 1954 by striking out the reference to section 219 of the Code and replacing it with a reference to section 219(b)(2) of the Code, to assure that the entire employee contribution to a simplified employee pension, as defined in section 408(k) of the Code, is taxable for Social Security purposes.

Section 325(b) of the bill amends section 209(e) of the Social Security Act by adding a new paragraph (5) which excludes from the definition of "wages" for Social Security coverage purposes employer contributions to a simplified employee pension if, at the time of payment, it is reasonable to believe that the employee will be entitled to a deduction from adjusted gross income under 219(b)(2) of the Code for such payment.

Section 325(c) of the bill provides that the amendment made by section 325 shall apply to remuneration paid after December 31, 1983.

Section 326. Effect of changes in names of State and local employees groups in Utah

Section 326(a) of the bill amends section 218(o) of the Social Security Act, which provides that certain entities in Utah may be treated as separate coverage groups with respect to Utah's coverage agreement with the Secretary, by adding at the end thereof a new sentence stating that the special treatment of such entities is not affected by changes in the names of the entities.

Section 326(b) of the bill provides that the amendment applies to name changes made before, on, or after enactment.

Section 327. Effective dates of international social security agreements

Section 327(a) of the bill amends section 233(e)(2) of the Social Security Act by changing the congressional review period for international Social Security agreements from a period during which each House of the Congress has been in session on each of 90 days to a period during which at least on House of the Congress has been in session on each of 60 days.

Section 327(b) of the bill provides that the amendment made by section 327(a) is effective upon enactment.

Section 328. Technical correction with respect to withholding of sick pay of participants in multiemployer plans

Section 328(a) of the bill amends section 3(d)(2) of Pub. Law 97-123 by adding a new subparagraph (D). The new subparagraph provides that a multiemployer sick plan shall act, to the extent provided in regulations, as an agent of the employer for whom a worker normally renders services.

Section 328(b) of the bill provides that the amendment is effective with respect to sick pay paid after June 30, 1983.

Section 329. Amounts received under certain deferred compensation and salary reduction arrangements treated as wages for FICA taxes

Section 329(a) of the bill amends section 3121 of the Internal Revenue Code of 1954 by adding a new subsection (v) which specifies that nothing in section 3121(a), which defines "wages" for Social Security taxation purposes, shall exclude "wages" from Social Security taxation purposes any employer contributions: (1) under a qualified cash or deferred compensation plan described in section 401(k) of the Code, (2) under a cafeteria plan described in section 125(d) of the Code (to the extent an employee can choose to receive a cash, property, or other benefits that would be taxable for Social Security purposes), or (3) for the purchase of an annuity contract described in section 403(b) of the Code.

Section 329(b) of the bill amends section 209 of the Social Security Act by adding a new paragraph at the end thereof to conform to the amendments made by subsection (a) of the bill.

Section 330. Codification of Rowan decision with respect to meals and lodging

Section 330(a)(1) of the bill amends section 3121(a) of the Internal Revenue Code of 1954 by adding a new paragraph (19) which specifically excludes from wages taxable for Social Security purposes the value of an employee's meals or lodging furnished by or on behalf of the employer if, at the time they are furnished, it is reasonable to believe that the employee will be able to exclude such items from income under section 119 (which provides an exclusion from gross income for the value of meals and lodging furnished for the convenience of employers).

Section 330(a)(2) of the bill amends section 209 of the Social Security Act by adding a new subsection (r) which specifically excludes from covered wages for Social Security purposes the value of an employee's meals or lodging excluded from taxation under 330(a)(1) of the bill.

Section 330(b)(1) of the bill amends section 3121(a) of the Internal Revenue Code of 1954 by adding a sentence after paragraph (19) (as added by section 330(a)(1) of the bill) providing that regulations prescribing exclusions from wages for income tax withholding purposes shall not be construed to require a similar exclusion from wages for Social Security taxation purposes.

Section 330(b)(2) of the bill amends section 209 of the Act by adding a sentence after subsection (r) (as added by section 330(a)(2) of the bill) providing that regulations prescribing exclusions from wages for income tax withholding purposes shall not be construed to require a similar exclusion from wages for Social Security coverage purposes.

Section 331. Technical and conforming amendments to the maximum family benefit provisions

Section 331 of the bill eliminates the January readjustment of the limit on combined maximum family benefits (CMFB) that occurs because of a technical defect in the maximum family benefit provision included in the 1977 Social Security amendments.

Section 331(a)(1) of the bill amends section 203(a)(3)(A)(ii) of the Social Security Act to restate that the CMFB limit is equal to 1.75 times the highest primary insurance amount possible based on the contribution and benefit base for a given year, and to specify that once the CMFB is computed for a family, that limit will thereafter increase on the basis of cost-of-living increases alone. The year for which the CMFB is computed for a family will be the later of 1983 or the year the CMFB provisions first apply. There is a special rule that if the CMFB provisions cease to apply for a family and then subsequently apply again, the CMFB limit will be redetermined.

Section 331(a)(2) of the bill amends section 203(a)(7) of the Act to provide that the new rules on the CMFB limit will also apply to CMFB cases where at least one of the primary insurance amounts involved is computed under the pre-1977 amendment provisions and at least one other is computed under the post-1977 amendment provisions.

Section 331(b) of the bill corrects a cross reference to a maximum family benefit provision to which a conforming change should have been made, but was not, in the 1977 amendments.

Section 331(c) of the bill provides that the new rules on the CMFB limit will be effective with respect to payments made for months after December 1983.

Section 332. Reduction from 72 to 70 of age beyond which no delayed retirement credits can be earned

Section 332 of the bill is a technical amendment to make a conforming change in section 202(w) of the Act that increases Social Security benefits on account of delayed retirement—retirement after age 65.

Section 332(a) would lower from 72 to 70 the age beyond which no further delayed retirement credit is available.

Section 332(b) provides that the change would apply to workers who reach age 70 after 1983. For workers who reach age 70 before 1984, prior law would apply except that no delayed retirement credits would accrue for any months after 1983.

Section 333. Relaxation of insured status requirements for certain workers previously entitled to a period of disability

Section 333(a)(1) of the bill makes a conforming change in clause (ii) of section 216(i)(3)(B) of the Social Security Act.

Section 333(a)(2) of the bill adds a new clause (iii) to section 216(i)(3)(B) of the Act which extends the special insured status test described in clause (ii) for purposes of a period of disability to those workers who used the special insured status test in establishing a period of disability that began before they became age 31, who subsequently recovered, but who then became redisabled at age 31 or later before having enough time to work long enough to earn 20 quarters of coverage prior to becoming redisabled. Such a worker would be insured if at least half (and not less than six) of the quarters elapsing after he or she attained age 21 and up to and including the quarter in which the worker became redisabled were quarters of coverage, or, if the redisability occured before 12 quarters have elapsed, at least 6 of the 12 quarters ending with the quarter of disability were quarters of coverage.

Section 333(b)(1) of the bill makes a conforming change in clause (ii) of section 223(c)(1)(B) of the Act.

Section 333(b)(2) of the bill adds a new clause (iii) to section 223(c)(1)(B) of the Social Security Act which extends the special insured status test for purposes of disability insurance benefits in the same manner as such test is extended under section 333(a)(2) for purposes of a period of disability.

Section 333(c) of the bill provides that the amendments made by subsections (a) and (b) will be effective with respect to applications filed after the date of enactment, except that no monthly benefits will be payable or increased by reason of these amendments for months before the month after enactment.

Section 334. Protection of benefits of illegitimate children of disabled beneficiaries

Section 334(a) of the bill amends section 216(h)(3) of the Act to provide benefits for illegitimate children of disabled workers for the month in which they satisfy all entitlement conditions, as provided under present law to the illegitimate children of retired beneficiaries.

Section 334(b) of the bill provides that the amendment made by subsection (a) shall be effective on the date of enactment.

Section 335. One-month retroactivity of widow's and widower's insurance benefits

Section 335 of the bill amends section 202(j)(4)(B) of the Act to allow an aged widow or widower to receive actuarially reduced benefits for the month in which the insured spouse died, if the application is filed in the following month, even though the retroactive payment would result in a lower future monthly benefits than would be the case if benefits were not paid retroactively.

Section 335(a) of the bill amends section 202(j)(4)(B) of the Act to make an exception to the rule, enacted by the Social Security Amendments of 1977, that bars the payment of retroactive benefits if such payments would require the lowering of future benefits.

Section 335(b) provides that this change would apply to survivors who apply for monthly benefits after the second month following the month of enactment.

Section 336. Nonassignability of benefits

Section 336(a)(1) of the bill amends section 207 of the Social Security Act, which concerns assignment of benefits, by designating the text of the present section 207 as subsection (a).

Section 336(a)(2) of the bill amends section 207 of the Act by adding a new subsection (b) which prohibits the provisions of section 207 from being limited, superseded, or modified by any other provision of law except by express reference to section 207.

Section 336(b) of the bill amends section 459(a) of the Act by inserting a reference to section 207 in order to continue to permit, for purposes of child support and alimony obligations, the garnishment and similar proceedings against an individual's Federal benefits which are based upon remuneration for employment.

Section 336(c) of the bill provides that the amendments made by subsection (a) will apply only with respect to benefits payable or rights existing under the Act on or after the date of enactment.

Section 337. Use of death certificates to prevent erroneous payments to deceased individuals

Section 338 of the bill amends section 205 of the Social Security Act to add a new subsection (r), which would authorize the Secretary of Health and Human Services to establish a program under which the States would furnish information derived from official death certificates for the purpose of correcting Social Security Administration records and preventing payments to deceased persons. The new subparagraph (r) would exempt death information furnished by the States from the disclosure provisions of the Freedom of Information Act and provide for payment to the States for the reasonable cost of furnishing such information.

Section 338. Public pension offset

Section 338 of the bill liberalizes the amount of the Social Security spouse's or surviving spouse's benefit that is offset when a person receives a governmental pension based on his or her own work not covered by Social Security.

Section 338(a)(1) of the bill amends sections 202(b)(4)(A), (c)(2)(A), (f)(2)(A), and (g)(4)(A) of the Act and paragraph (7)(A) of section 202(e) of the Act (as redesignated by section 131(a)(3)(A) of the bill) to provide that the amount of the offset will be equal to one-third of the amount of any monthly periodic public pension, rather than the full amount of that pension. Section 338(a)(2) of the bill provides that the amount of any reduction under this provision will be rounded, if necessary, to the next higher multiple of $0.10.

Section 338(b) of the bill provides that this amendment will apply to the monthly benefits of persons who become eligible for public pensions after June 1983.

Section 339. Study concerning the establishment of the Social Security Administration as an independent agency

Section 339 provides for a Joint Study Panel under the authority of the Ways and Means and Finance Committee to make a study concerning the establishment of the Social Security Administration as an independent agency.

Subsection (a) establishes a Joint Study Panel on the Social Security Administration.

Subsection (b) prescribes the manner of appointment of the members appointed to the Panel.

Subsection (b)(1) provides that the Panel shall be composed of three members, appointed jointly by the Chairman of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and that such Chairman shall jointly select one member of the Panel to serve as its Chairman. The provision further requires that members of the Panel shall be chosen, on the basis of their integrity, impartiality, and good judgment, from individuals who, as a result of their training, experience, and attainments, are widely recognized by professionals in the field of government administration as experts in that field.

Subsection (b)(2) provides that vacancies in the membership of the Panel shall not affect the power of the remaining members to perform the duties of the Panel and shall be filled in the same manner in which the original appointment was made.

Subsection (b)(3) provides that each member of the Panel not otherwise in the employ of the U.S. Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule for each day during which such member is actually engaged in the performance of the duties of the Panel. Further, each member of the Panel shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

Subsection (b)(4) provides that, by agreement between the Chairmen of the Committee on Ways and Means and the Committee on Finance, such Committees shall provide the Panel, on a reimbursable basis, office space, clerical personnel, and such supplies and equipment as may be necessary for the Panel to carry out its duties. Further, subject to such limitations as the Chairmen of such Committees may jointly prescribe, the Panel may appoint such additional personnel as it considers necessary and may fix the compensation of such personnel as it considers appropriate at an annual rate which does not exceed the rate of basic pay then payable for GS-18, and may procure by contract the temporary or intermittent services of clerical personnel and experts or consultants, or organizations thereof.

Subsection (b)(5) provides for appropriating to the Panel from the four Social Security trust funds such sums as the Chairmen of the Committee on Ways and Means and the Committee on Finance shall jointly certify to the Secretary of the Treasury as necessary to carry out the Panel's duties. Further, the Secretary of the Treasury shall allocate among the four trust funds the total amount to be transferred from the trust funds so that the amount of the sums transferred from each such trust fund shall bear the same ratio to the total amount transferred from all such trust funds as the amount expended from such trust fund during the fiscal year ending September 30, 1982, bears to the total amount expended from all such trust funds during such fiscal year.

Subsection (c) sets forth the duties of the Panel with respect to the study provided for under this section.

Subsection (c)(1) provides that the Panel shall undertake, as soon as possible after the date of enactment, a thorough study with respect to the feasibility and implementation of removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch with its own independent administrative structure, including the possibility of such a structure headed by a board appointed by the President, by and with the advice and consent of the Senate.

Subsection (c)(2) provides that the Panel, in its study, shall address, analyze, and report specifically on the following matters: the effect of the organizational status of the Social Security Administration on beneficiaries under the Social Security Act and the general public; the legal and other relationships of the Social Security Administration with other organizations, within and outside the Federal Government, and the changes in such relationships which would be required as a result of establishing the Social Security Administration as an independent agency; any changes which may be necessary or appropriate, in the course of establishing the Social Security Administration as an independent agency, in the constitution of the Boards of Trustees of the four Social Security trust funds; and such other matters as the Panel may consider relevant to the study.

Subsection (d) provides that the Panel shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than April 1, 1984, a report of the findings of its study, together with any recommendations the Panel considers appropriate. Further, the Panel and all authority granted in this section shall expire 30 days after the date of the filing of the required report.

Section 340. Conforming changes in medicare premium provisions to reflect changes in costs-of-living benefit adjustments

Section 340 of the bill amends sections 1818(d) and 1839(c) and (g) of the Social Security Act, which establish monthly premium rates under parts A and B of title XVIII of the Act, to provide that the effective dates of changes in the monthly premium for uninsured persons enrolled in part A, hospital insurance, and the monthly premium for persons enrolled in part B, supplementary medical insurance, will be moved from July of a year to January of a year.

Section 340(a)(1) of the bill amends section 1818(d)(2) to change the time when the Secretary of Health and Human Services must determine and promulgate the monthly premium under part A from the last calendar quarter of each year to the next to last calendar quarter of each year.

Sections 340(a)(2) and (3) of the bill further amend section 1818(d)(2) to change the effective date of changes in the part A premium from July 1 of the year following the year of promulgation to January 1 of the year following the year of promulgation.

Section 340(b)(1)(A) of the bill amends section 1839(c) to change the time when the Secretary of Health and Human Services must determine and promulgate the actuarial rates for the aged and disabled and the monthly premium rate for all part B enrollees from December of each year to September of each year.

Sections 340(b)(1)(B), (C) and (D) amend sections 1839(c)(1)(3) and (4) to change the period for which the actuarial rates and monthly premium will apply from the 12-month period beginning on July of the year following the year of promulgation to the calendar year following the year of promulgation.

Sections 340(b)(1)(E) and (F) further amend section 1839(C)(3)(A) to change the period over which the comparison of primary insurance amounts at a given AIME level is made for purposes of establishing a percentage limitation on increases in the monthly premium from May 1 of the year of promulgation and May 1 of the following year to November 1 of the year preceding the year of promulgation and November 1 of the year of promulgation.

Sections 340(b)(2)(A) and (B) amend section 1839(g) to provide that the requirement that the monthly premium for months after June 1983 and prior to July 1985 equal 50 percent of the actuarial rate for the aged will apply instead to months after December 1983 and prior to January 1986.

Section 340(c) provides that the amendments made by subsections 340(a) and (b) will apply to premiums for months beginning with January 1984.

Section 340(c)(1) provides that, for months after June 1983 and before Janurary 1984, the monthly premium rates under parts A and B of titles XVIII will equal the monthly premium rates for June 1983.

Section 340(c)(2) provides that the amount of the government contribution for months after June 1983 and before January 1984 will be computed on the basis of the actuarial rate which would have been in effect without regard to this section, but using the premium which was actually in effect for these months.

D. Supplemental Security Income (SSI) Provisions (Title IV)

1. SUMMARY

A. BENEFIT INCREASE AND PASS-THROUGH REQUIREMENTS

(1) The Federal SSI benefit payment is increased by $20 per month for individuals and $30 per month for couples, effective July 1, 1983.

(2) The next Federal SSI cost-of-living adjustment (COLA) is delayed from July 1983 until January 1984, and the current linkage between the OASDI and the SSI COLA is maintained. Federal SSI benefits will be adjusted in January 1984, and every January thereafter, by the same percentage and under the same procedures as OASDI benefits.

(3) The current SSI pass-through law is amended to provide that, in order to meet the "payment level" pass-through requirement, a State could not reduce its SSI supplemental payment levels below the amount that would provide SSI recipients with an increase in benefits equal to the amount that Federal SSI benefits would be increased in July 1983 under the current COLA provisions. A State could continue to comply with Federal pass-through law by meeting the present "aggregate amount" requirement. In other words, as under current law, a State would not be required to spend more in total for State SSI supplemental payments than the total aggregate amount of State supplementation paid by the State in the previous 12-month period.

B. PAYMENT OF SSI TO TEMPORARY RESIDENTS OF PUBLIC EMERGENCY SHELTERS

Under current law, aged, blind or disabled individuals who are residents of *private* emergency shelters are eligible for SSI. However, such residents of *public* shelters cannot receive SSI. Under the committee bill, aged, blind or disabled individuals who are temporary residents of *public* emergency shelters could receive SSI payments for a period of up to three months during any 12 month period.

C. DISREGARD OF EMERGENCY AND OTHER IN-KIND ASSISTANCE

Effective from enactment until September 30, 1984, emergency and other in-kind assistance provided by a private nonprofit organization to an aged, blind or disabled individual, or to a family with dependent children, would be disregarded under the SSI and AFDC programs, if the State determines that such assistance was provided on the basis of need.

2. COMPARISON WITH PRESENT LAW

Issue	Current law	Committee bill
a. SSI Benefit Increase and Pass-Through Requirements.	a. (1) The current maximum monthly SSI benefit is $284.30 for a single person and $426.40 for married couples. Benefits are indexed to the Consumer Price Index (CPI). Cost-of-living increases are provided annually in July if the CPI for the first quarter of the calendar year increases by at least 3 percent over the first quarter of the previous year. Benefits are increased by the same percentage as social security benefits. This occurs through a reference in the SSI law to the social security cost-of-living provision. For example, the current payment level of $284.30 per individual, which became effective July 1982, represents an increase of 7.4 percent (or $19.60 monthly) from the previous July 1981 level of $264.70.	a (1) The Federal SSI benefit payment is increased by $20 per month for individuals and $30 per month for couples, effective July 1, 1983. The next Federal SSI cost-of-living adjustment (COLA) is delayed from July 1983 until January 1984. The Federal SSI benefits will be adjusted in January 1984, and every January thereafter, by the same percentage and under the same procedures as OASDI benefits.
a. Continued—SSI Benefit Increase and Pass-Through Requirements.	(1) Since July 1977, States that supplement Federal SSI benefits have been required to meet SSI "pass-through requirements" contained in Federal law. A State could meet these requirements by either (1) maintaining the State supplementation payment levels at the levels paid in December 1976; or (2) by spending in total no less for State SSI supplemental payments than the total aggregate amount of State supplementation paid by the State in the previous 12-month period. An amendment contained in the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) allows a State that shifts from the aggregate spending option to the State supplementation payment level option to use the State supplementation payment level in the previous December rather than the level in December 1976.	(1) The current SSI pass-through law is amended to provide that, in order to meet the "payment level' pass-through requirement, a State could not reduce its SSI supplemental payment levels below the amount that would provide SSI recipients with an increase in benefits equal to the amount that Federal SSI benefits would be increased in July 1983 under the current COLA provisions. A State could continue to comply with Federal pass-through law by meeting the present "aggregate amount" requirement. In other words, as under current law, a State would not be required to spend more in total for State SSI supplemental payments than the total aggregate amount of State supplementation paid by the State in the previous 12-month period.
b. Payment of SSI to Temporary Residents of Public Emergency Shelters.	Under current law, aged, blind or disabled individuals who are residents of *private* emergency shelters are eligible for SSI. However, such residents of *public* shelters cannot receive SSI.	Aged, blind or disabled individuals who are temporary residents of public emergency shelters could receive SSI payments for a period of up to three months during any 12-month period.

2. COMPARISON WITH PRESENT LAW—Continued

Issue	Current law	Committee bill
c. Disregard of Emergency and Other In-Kind Assistance.	Under present law, emergency and in-kind assistance (other than assistance to meet home energy needs) provided to aged, blind or disabled individuals must be counted as income under the SSI program. Such assistance provided to families with childen may be counted as income under the AFCD program.	Effective from enactment until September 30, 1984, emergency and other in-kind assistance provided by a private nonprofit organization to an aged, blind or disabled individual, or to a family with dependent children, would be disregarded under the SSI and AFDCI programs, if the State determines that such assistance was provided on the basis of need.

3. SECTION-BY-SECTION EXPLANATION

Section 401: Increase in Federal SSI benefit standard

The current Federal monthly SSI benefit standard is $284.30 for a single person and $426.40 for married couples. Benefits are indexed to the Consumer Price Index (CPI). Cost-of-living increases are provided annually in July if the CPI for the first quarter of the calendar year increases by a least 3 percent over the first quarter of the previous year. Benefits are increased by the same percentage as social security benefits. This occurs through a reference in the SSI law to the SSI social security cost-of-living provision. For example, the current payment level of $284.30 per individual, which became effective July 1982, represents an increase of 7.4 percent (or $19.60 monthly) from the previous July 1981 level of $264.70.

Section 401 contains changes in the SSI law that are directly related to the Social Security amendments included in previous Titles of this bill and the proposed changes in SSI contained in the recommendations of the National Commission on Social Security Reform.

This section provides for a $20 increase in the Federal SSI benefit standard for an individual and a $30 increase for a couple, effective July 1, 1983. This increase would be in lieu of the cost-of-living increase in the Federal SSI benefits standard that would occur July 1, 1983 under current law. It is also in lieu of the National Social Security Commission's proposal to increase the current $20 monthly disregard to $50, limiting the additional $30 to OASDI benefits only.

The next cost-of-living adjustment (COLA) in the Federal SSI benefit standard would occur on January 1, 1984 and then each January 1st thereafter. As under present law, the cost-of-living increase for SSI benefits would continue to occur through the reference in the SSI law (Title XVI) to the provisions in the Social Security law (Title II) which make automatic cost-of-living increases in Social Security benefits. Therefore, the six-month delay and related modifications in the base period for determining the cost-of-living increase contained in the Social Security amendments in this bill will also apply to the SSI program.

A stated intent of the Social Security Commission's report was to provide that low income social security recipients be protected against a loss of income due to the proposed six-month delay in the OASDI cost-of-living increase, from July 1, 1983 until January 1, 1984. Under the Commission's proposal to increase the SSI disregard of OASDI income from $20 to $50 a month, concurrent recipients of SSI and OASDI would have received a $30 monthly increase in their total income as of July 1, 1983.

In other words, increasing the disregard, as proposed by the Commission, would have more than made up for the income loss due to the six-month COLA delay for those SSI recipients who also receive OASDI (social security) benefits. This is approximately one-half of all SSI recipients. The other half, however, those who receive only SSI benefits, which is approximately two million individuals, would not benefit from the proposed increase in the disregard.

As shown in table 1, while 70 percent of the aged receiving SSI receive both SSI and social security payments, only 36 percent of the disabled and 38 percent of the blind receiving SSI also receive social security benefits. Table 2 shows the percentage of the SSI recipients in each State, by reason for SSI eligibility, who else receive social security benefits.

Because the proposed disregard increase would benefit only one-half of all SSI recipients, the Committee chose to increase the Federal SSI benefit standard by $20 per month for individuals and $30 per month for couples, instead of increasing the disregard of social security income by $30 per month. This increase will apply to all SSI recipients, those who receive only SSI payments as well as those who receive both SSI and social security benefits.

TABLE 1.—NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED PAYMENTS: PERCENT RECEIVING OTHER INCOME AND AVERAGE MONTHLY AMOUNT, BY REASON FOR ELIGIBILITY AND TYPE OF INCOME, MAY 1982

Type of income	Total	Reason for eligibility		
		Aged	Blind	Disabled
Total number	3,961,932	1,632,615	78,095	2,251,822
Percent with other income:				
Social security benefits	50.1	70.1	37.6	36.1
Other unearned income	10.4	12.6	11.4	8.8
Earned income	3.2	1.6	6.8	4.3
Average monthly amount:				
Social security benefits	$233	$236	$246	$228
Other unearned income	$80	$71	$81	$90
Earned income	$108	$106	$404	$93

TABLE 2.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED: PERCENT OF PERSONS IN CONCURRENT RECEIPT OF FEDERALLY ADMINISTERED SSI PAYMENTS AND SOCIAL SECURITY BENEFITS AND AVERAGE MONTHLY AMOUNT OF SOCIAL SECURITY BENEFITS, BY REASON FOR ELIGIBILITY AND STATE, DECEMBER 1980

State	Percent with social security benefits				Average monthly social security benefit			
	Total	Aged	Blind	Disabled	Total	Aged	Blind	Disabled
Total	51.0	70.2	37.8	36.0	$196.94	$198.56	$208.43	$194.00
Alabama	58.7	72.8	34.4	40.7	164.00	164.96	159.33	161.85
Alaska	34.4	55.3	17.5	21.8	171.49	169.74	187.00	173.89
Arizona	44.3	65.6	25.4	31.0	167.22	168.38	164.70	165.68
Arkansas	61.0	75.7	33.1	43.4	164.31	165.58	159.03	161.66
California	60.1	77.5	55.0	45.8	254.44	258.33	255.66	248.86
Colorado	43.8	64.9	19.1	28.1	177.37	177.83	179.96	176.51
Connecticut	31.3	48.4	21.9	23.4	180.73	183.22	175.88	178.41
Delaware	47.0	72.5	47.6	32.6	188.16	189.69	199.31	185.63
District of Columbia	38.0	67.7	27.8	26.6	184.51	186.61	193.90	182.26
Florida	41.6	50.5	30.7	32.9	177.32	178.25	169.59	176.11
Georgia	53.4	70.4	33.0	39.1	170.24	171.31	157.73	168.92
Hawaii	41.9	52.4	22.9	32.0	187.57	189.57	193.08	184.16
Idaho	48.5	75.1	25.4	35.0	180.31	183.37	174.97	176.93
Illinois	32.4	56.2	21.2	22.9	177.38	179.92	175.55	174.86
Indiana	45.9	71.4	26.0	32.1	177.70	180.58	172.67	174.22
Iowa	52.7	74.1	43.7	36.6	183.32	186.43	191.71	177.62
Kansas	44.7	69.5	34.6	29.0	178.56	181.85	178.49	173.53
Kentucky	51.0	71.6	24.9	35.3	161.72	164.49	143.32	157.66
Louisiana	47.6	64.9	27.7	32.1	165.14	167.45	152.32	161.13
Maine	63.6	84.1	48.1	47.3	205.59	209.28	182.44	200.80
Maryland	38.6	63.6	22.4	26.3	178.92	181.72	181.69	175.49

TABLE 2.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED: PERCENT OF PERSONS IN CONCURRENT RECEIPT OF FEDERALLY ADMINISTERED SSI PAYMENTS AND SOCIAL SECURITY BENEFITS AND AVERAGE MONTHLY AMOUNT OF SOCIAL SECURITY BENEFITS, BY REASON FOR ELIGIBILITY AND STATE, DECEMBER 1980—Continued

State	Percent with social security benefits				Average monthly social security benefit			
	Total	Aged	Blind	Disabled	Total	Aged	Blind	Disabled
Massachusetts	61.5	80.2	57.4	38.4	249.61	257.76	261.69	226.45
Michigan	47.1	70.9	27.9	35.6	201.92	203.08	191.46	200.97
Minnesota	44.5	68.5	24.5	28.6	174.13	178.46	177.08	166.85
Mississippi	59.3	75.8	31.7	39.9	157.14	158.81	146.11	153.55
Missouri	53.8	71.3	41.9	37.9	172.71	174.48	167.20	169.81
Montana	47.8	71.7	36.0	35.8	181.88	185.73	176.92	178.04
Nebraska	48.8	71.4	36.0	34.2	181.63	185.45	174.22	176.58
Nevada	53.0	73.3	59.2	26.4	210.56	212.88	234.13	194.04
New Hampshire	45.3	63.8	37.0	33.6	184.62	186.86	170.81	182.48
New Jersey	40.0	54.1	31.5	31.4	197.17	199.73	185.63	194.64
New Mexico	47.8	68.5	25.3	33.9	165.12	167.39	146.81	162.32
New York	41.8	60.9	31.7	30.5	213.42	219.57	201.82	206.22
North Carolina	56.5	77.1	30.6	39.9	166.04	168.21	163.76	162.50
North Dakota	54.8	69.5	25.6	40.0	171.69	175.39	159.35	165.09
Ohio	38.3	63.2	26.9	28.2	175.69	179.97	166.66	171.89
Oklahoma	48.5	63.7	22.9	33.5	170.32	171.13	162.51	168.87
Oregon	43.5	70.5	23.1	30.5	183.17	185.66	177.95	180.39
Pennsylvania	45.1	67.9	38.7	32.7	195.75	198.97	192.52	192.17
Rhode Island	51.3	68.6	34.2	40.3	212.16	220.49	197.33	203.16
South Carolina	55.4	75.4	28.8	39.1	167.55	168.87	150.22	165.88
South Dakota	51.8	70.7	27.5	35.2	175.50	180.59	174.71	166.04
Tennessee	54.7	75.0	27.8	37.4	164.14	165.74	150.58	161.60
Texas	54.6	69.3	30.3	36.1	168.89	170.32	162.69	165.44
Utah	34.4	59.2	27.2	23.0	173.04	177.11	147.63	169.04
Vermont	58.2	80.1	43.4	43.1	205.33	207.59	180.88	202.92
Virginia	52.1	73.8	29.4	35.9	169.28	170.90	159.01	166.96
Washington	45.7	70.7	28.3	33.0	198.75	199.40	191.66	198.15
West Virginia	43.7	66.6	25.2	31.5	163.44	169.57	148.85	156.90
Wisconsin	62.3	83.8	32.7	45.1	225.85	229.04	211.92	221.17
Wyoming	52.0	73.3	37.9	37.2	180.82	183.35	157.27	177.90
Other areas: Northern Mariana Islands	.3			.9				

The Committee is aware of the point of view that those individuals who have paid social security taxes and qualified for OASDI benefits should have some return from the taxes they have paid. Thus, they should have a higher total income than individuals on SSI who have not qualified for social security benefits.

It is the position of the Committee, however, that the primary purpose of the SSI program is to assure a minimum income for the aged, blind and disabled in all States. The Supplemental Security Income Program (SSI), as the name implies, is intended to be complementary to, or to supplement where necessary, social insurance benefits or other income an aged, blind or disabled person may have, but which is less than the Federal SSI benefit standard. In addition, there are other aged, blind and disabled persons who, because of life-long disability, the failure of employers to deduct and pay social security taxes on their behalf (such as those in domestic employment), or for other reasons, do not qualify for social security. The purpose of the SSI program is to provide these individuals with a minimum level of income.

After evaluating the Commission's proposal, which would increase the income of only those SSI recipients who also qualified for social security, the Committee chose to provide a greater degree of protection from deprivation for all aged, blind and disabled who rely on the SSI program, either as a supplement to other income or as their only source of income.

Table 3 compares SSI proposals that would increase the disregard for social security income from $20 to $50 per month with the Committee bill, which provides for a July 1983 $20 per month increase in the Federal SSI benefit standard for individuals and a $30 per month increase for couples, in lieu of increasing the disregard. As indicated, under the Committee bill (column 3), as of January 1984 both SSI only and SSI/OASDI individual recipients will receive a projected $32 increase in their monthly income. Whereas, under the proposals that would increase the disregard, over this same period SSI/OASDI recipients would receive a $41 increase and SSI only recipients would receive only an $11 increase.

TABLE 3.—COMPARISON OF ALTERNATIVE PROPOSALS WITH COMMITTEE BILL

[Monthly individual payment level to recipients]

	1. (a) Provide 4.1% July COLA; (b) Increase disregard to $50 in July		2. (a) Delay July COLA; (b) Increase disregard to $50 in July; (c) Provide 4.1% January COLA		3. Committee bill: (a) Delay July COLA; (b) Increase July benefits by $20/$30; (C) Provide 4.1% January COLA	
	OASDI/SSI	SSI only	OASDI/SSI	SSI only	OASDI/SSI	SSI only
February 1983	304	284	304	284	304	284
July 1983	345	295	334	284	324	304
January 1984	345	295	345	295	336	316
Total Increase in monthly benefits from February 1983 to January 1984	41	11	41	11	32	32
Estimated total cost (millions of dollars):						
Fiscal year 1983	225		75		110	
Fiscal year 1984	660		460		505	
Fiscal year 1985	755		500		580	
Fiscal year 1986	755		500		580	
Fiscal year 1987	740		480		605	
Fiscal year 1988	780		475		630	
Total	3,915		2,490		3,010	

Section 402: Adjustment in Federal SSI pass-through provisions

Since July 1, 1975 there have been automatic cost-of-living increases in the Federal SSI benefit standard. This has resulted in the Federal benefit standard increasing from $146 a month for an individual and $219 for a couple in June 1975 to the current Federal benefit standard of $284 for an individual and $426 for a couple.

There was wide variation among State benefit standards for aid to the aged, blind and disabled under the State programs in effect prior to the implementation of the SSI program in January 1974. In the case of individuals who were receiving aid under the State programs in December 1973, States were mandated to provide a State supplement for such individuals so that they would not lose income when they were transferred to the SSI program. While State supplementation of the Federal SSI benefit standard in the case of new applicants was optional with the States, those States that chose to supplement were protected against any costs which exceeded the States' calendar year 1972 expenditures for payments to aged, blind and disabled, up to the State's January 1972 payment level. The States that qualified for these "hold-harmless" payments from the Federal government had a portion of their State supplementary payments financed by the Federal government. In many States, however, almost the entire cost of the programs of aid to the aged, blind and disabled was assumed by the Federal government because the federally financed SSI minimum benefit standard exceeded the States' benefit standard or maximum payment level under prior State operated programs.

When Congress enacted provisions providing annual cost-of-living increases in the Federal SSI benefit standard, most assumed that the annual increases would benefit SSI recipients in all the States, including those in States that supplemented the Federal SSI benefit standard.

However, in 1976 Congress became aware that some States were decreasing their State SSI supplementary payment levels when there was a cost-of-living increase in the Federal SSI benefit standard. As a result, SSI recipients in such a State did not receive an increase in income.

In 1976, Congress enacted as part of Public Law 94-585 SSI "pass-through requirements". If a State does not meet these requirements, it is subject to the loss of Federal matching funds under Title XIX (Medicaid) of the Social Security Act.

Under current law, the basic elements of which have not been changed since enactment in 1976, a State can meet the pass-through requirements by either (1) maintaining the State supplementation payment levels at the levels they were in December 1976; or (2) by spending in total no less for State SSI supplemental payments than the total aggregate amount of State supplementation paid by the State in the previous 12-month period. An amendment contained in the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) allows a State that shifts from the aggregate spending option to the State supplementation payment level option to use the State supplementation payment level in the previous December rather than the level in December 1976.

The Committee is concerned that, because the "payment level" pass-through requirement has not been updated since enactment in 1976, it is possible that in some States SSI recipients would receive none of the July 1983 $20/$30 increase in the Federal SSI standard provided in this section. For example, if a State has increased its State supplemental payment levels at any time since December 1976, it may subsequently reduce them and still meet current law pass-through requirements, so long as it does not reduce them below what they were in December 1976.

To the extent such a State does reduce its supplemental payment levels in conjunction with an increase in the Federal SSI benefit standard, it reduces the amount of the Federal increase that is "passed-through" to recipients. The following is a hypothetical example using California supplemental payment levels:

	December 1976	June 1983	July 1983
Federal SSI payment	168	284	304
State supplemental payment level	108	166	146
Total	276	450	450

In this example, the recipients in July 1983 do not receive any of the Federal increase (i.e. none of it is "passed-through") because the State supplemental payment is reduced by the same amount the Federal SSI benefit is increased. Nevertheless, California would be in compliance with current Federal pass-through requirements because it had not reduced its State supplemental payment below in December 1976 level, which, as shown, was $108.

Because of the Committee's concern that, under current law, it is possible for some States to pass-through none of the $20/$30 increase, this section updates the current "payment level" pass-through requirement. The intent of this change is to provide SSI recipients with an increase in total income equal to the cost-of-living increase that would have been provided in the Federal SSI benefit standard in July 1983 under the present COLA provisions. At the same time, the Committee has maintained the current protection for States against total supplementation costs in excess of total expenditures in the previous year.

This section amends the current SSI pass-through law to provide that, in order to meet the "payment level" pass-through requirement, a State could not reduce its SSI supplemental payment levels below that which would be sufficient to provide SSI recipients with an increase in benefits equal to the amount that Federal SSI benefits would be increased in July 1983 under the current COLA provisions. A State could continue to comply with Federal pass-through law by meeting the present "aggregate amount" requirement. In other words, as under current law, a State would not be required to spend more in total for State SSI supplemental payments than the total aggregate amount of State supplementation paid by the State in the previous 12-month period.

The six month delay in the social security cost-of-living increase, combined with a $20/$30 increase in the Federal SSI benefit standard, creates the necessity to continue to provide some flexibility for States that have a significant number of SSI "state supplementation only" recipients. "State supplementation only" recipients are those aged, blind or disabled individuals and couples whose countable income from non-SSI sources, which in most cases is from social security, exceeds the Federal SSI benefit standard. They qualify for an SSI payment only because of State SSI supplementary payments which, in their case, are entirely financed by the State.

There are approximately 470,000 "state supplementation only" SSI recipients receiving benefits under federally administered and State administered State supplementation programs. Tables 4 and 5 show the number of persons receiving Federal and State administered State supplementation, by reason for eligibility and State, in June 1982. These tables also show the number of persons that are "state supplementation only" recipients.

As indicated in columns 1 and 2 of Table 6, which uses California as an example, when there is a cost-of-living increase in both the Federal SSI benefits and social security benefits, an individual who receives only social security and State supplementation payments can receive an increase in total income without additional cost to the State. However, when there is an increase in the combined Federal/State SSI benefit standard and *not* an increase in the social security benefit, as will occur under this bill, without some flexibility in the pass-through requirements, some States would have a significant increase in their total state supplementation costs. This would be the case in States such as California, Massachusetts and Wisconsin in which over 30 percent of their SSI recipients are "state supplementation only" cases.

Therefore, the bill will continue to allow States the flexibility to use a portion of the total amount of State supplementation funds to make up for the lack of an increase in the social security for "state supplementation only" recipients by reducing the State supplementary payment standard for all SSI recipients in the State, as indicated in column 3 of Table 6.

TABLE 4.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED STATE SUPPLEMENTATION, BY REASON FOR ELIGIBILITY AND STATE, JUNE 1982 [1]

State	All persons		Aged		Blind		Disabled	
	Total [2]	With State supplementation only	Total	With State supplementation only	Total	With State supplementation only	Total	With State supplementation only
Total	1,600,323	421,481	631,386	242,285	36,031	9,247	932,906	169,949
Arkansas	303	17	181	13	18		104	4
California	666,415	269,478	287,500	152,132	17,503	6,280	361,412	111,066
Delaware	440	82	133	36	48	11	259	35
District of Columbia	14,184	408	3,776	187	202	5	10,206	216
Florida	11		7		1		3	
Georgia	344	54	201	31	11		132	23
Hawaii	9,387	595	4,442	344	162	3	4,783	248
Iowa	1,690	216	252	60	893	54	545	102
Kansas	178	6	40	1	6		132	5
Louisiana	996	60	942	51	2		52	9
Maine	19,451	3,970	8,049	2,423	289	31	11,113	1,516
Maryland	449	19	132	5	21		296	14
Massachusetts	108,588	41,180	56,732	30,047	4,849	1,920	47,007	9,213
Michigan	103,999	11,248	31,029	4,829	1,854	95	71,116	6,324
Mississippi	382	17	257	9	6		119	8
Montana	732	95	57	8	4		671	87
Nevada	3,758	985	3,268	792	449	181	41	12
New Jersey	78,402	7,110	28,238	3,448	1,109	51	49,055	3,611
New York	326,285	46,323	114,523	26,218	3,919	316	207,843	19,789
Ohio	400	34	132	10	21	2	247	22
Pennsylvania	145,410	13,251	46,408	6,752	2,944	92	96,058	6,407

TABLE 4.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED STATE SUPPLEMENTATION, BY REASON FOR ELIGIBILITY AND STATE, JUNE 1982[1]—Continued

State	All persons		Aged		Blind		Disabled	
	Total[2]	With State supplementation only	Total	With State supplementation only	Total	With State supplementation only	Total	With State supplementation only
Rhode Island	13,317	2,533	4,971	1,449	202	21	8,144	1,063
South Dakota	101	2	39	......	4	1	58	1
Tennessee	45	1	18	......	3	......	24	1
Vermont	8,006	1,364	3,029	774	114	8	4,863	582
Washington	39,988	3,945	12,629	1,835	555	36	26,804	2,074
Wisconsin	57,057	18,488	24,400	10,831	842	140	31,815	7,517
Unknown	5	......	1	......	......	......	4	......

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[1] Partly estimated.

[2] Includes all persons with both Federal SSI payments and federally administered State supplementation and those eligible for federally administered State supplementation only.

TABLE 5.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS RECEIVING STATE-ADMINISTERED STATE SUPPLEMENTATION, BY REASON FOR ELIGIBILITY AND STATE, JUNE 1982

State	All persons		Aged		Blind		Disabled	
	Total	With State supplementation only	Total	With State supplementation only	Total	With State supplementation only	Total	With State supplementation only
Total	[1] 246,548	......	130,837	......	3,421	......	105,606	......
States reporting supplementation only cases	[1] 238,113	49,106	127,213	29,313	3,215	583	101,001	18,660
Alabama	16,971	3,182	12,408	2,393	124	16	4,439	773
Alaska[2]	928	260	379	128	12	2	537	130
Arizona	1,672	175	988	141	4	......	680	34
Colorado	33,936	10,661	23,758	9,240	149	8	10,029	1,413
Connecticut	12,025	8,768	5,410	3,892	87	53	6,528	4,823
Florida	7,414	......	3,907	......	(3)	......	[4] 3,507	......
Idaho	2,647	572	1,024	305	26	2	1,597	265
Illinois	29,138	7,344	6,025	1,521	298	38	22,815	5,785
Kentucky	7,845	1,742	4,373	1,310	103	5	3,369	427
Maryland	[1] 550	[1] 550	(3)	(3)	(3)	(3)	(3)	(3)
Minnesota[2]	10,139	1,378	2,886	493	156	21	7,097	864
Missouri	20,515	5,749	16,579	4,394	757	281	3,179	1,074
Nebraska	8,433	1,506	3,428	641	135	22	4,870	843
New Hampshire	4,517	(3)	1,564	(3)	167	(3)	2,786	(3)
New Mexico	[1] 281	......	(3)	......	(3)	......	(3)	......
North Carolina	10,917	2,478	6,221	1,667	258	44	4,438	767
North Dakota	99	2	65	1	2	......	32	1
Oklahoma	53,089	2,425	34,408	1,828	453	10	18,228	587
Oregon	12,416	2,314	4,070	1,359	601	81	7,745	874
South Carolina	1,746	......	715	......	22	......	1,009	......
South Dakota	338	(3)	201	(3)	2	(3)	135	(3)
Utah	[1] 5,853	......	(3)	......	(3)	......	(3)	......
Virginia	3,580	(3)	1,859	(3)	37	(3)	1,684	(3)
West Virginia	109	......	42	......	......	......	67	......
Wyoming	1,390	......	527	......	28	......	835	......

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[1] Includes data not distributed by reason for eligibility.

[2] Represents March 1980 data for Alaska and February 1982 data for Minnesota; data not available for June 1982.

[3] Data not available.

[4] Includes data for the blind.

TABLE 6.—IMPACT IN CALIFORNIA OF COMMITTEE SSI AMENDMENTS: MONTHLY PAYMENTS TO INDIVIDUAL SSI RECIPIENTS

	Current law February 1983 (1)			Current law July 1983 COLA in SSI and OASDI (4.1 percent) (2)			Committee bill; $20 increase in July modified pass-through (No less than under July 1983 COLA) (3)			Committee bill pass-through full $20 increase in July (4)		
Social security	350	250	0	364	260	0	350	250	0	350	250	0
$20 disregard	-20	-20	0	-20	-20	0	-20	-20	0	-20	-20	0
Countable income	330	230	0	344	240	0	330	230	0	330	230	0
Federal SSI benefit standard	284	284	284	295	295	295	304	304	304	304	304	304
Excess social security income	46	0	0	49	0	0	26	0	0	26	0	0
Federal SSI payments	0	54	284	0	55	295	0	74	304	0	74	304
State supplemental standard	166	166	166	166	166	166	157	157	157	166	166	166
Countable social security income	-46	0	0	-49	0	0	-26	0	0	-26	0	0
State supplemental payment	120	166	166	117	166	166	131	157	157	140	166	166
Total income:												
Social security	350	250	0	364	260	0	350	250	0	350	250	0
Federal SSI payment	0	54	284	0	55	295	0	74	304	0	74	304
State supplemental payment	120	166	166	117	166	166	131	157	157	140	166	166
Total	470	470	450	481	481	461	481	481	461	490	490	470

Section 403: SSI eligibility for temporary residents of emergency shelters for the homeless

The homeless who use public emergency shelters in large cities are not eligible for SSI because residents of *public* Institutions (except small group homes and medical institutions) are not eligible for SSI the first full month throughout which they are a resident of public institution Aged, blind or disable individuals who are residents of *private* emergency shelters are eligible for SSI.

This section provides that aged, blind or disabled individuals living in *public* emergency shelters could receive SSI payments for up to three months during any 12-month period. The SSI benefits should enable the individual, with the help of the staff of the shelter and other public or private agencies, to arrange and make necessary deposits for permanent housing.

Section 404: Disregarding of emergency and other in-kind assistance provided by nonprofit organizations

Under present law, privately financed emergency and other in-kind assistance, other than energy assistance, that is provided to aged, blind or disabled individuals is counted as income under the SSI program. Such assistance to families with dependent children may be counted as income under State AFDC law.

This section provides that, effective from enactment until September 30, 1984, emergency and other in-kind assistance provided by a private nonprofit organization to an aged, blind or disabled individual, or to a family with dependent children, would be disregarded under the SSI and AFDC programs, if the State determines that such assistance was provided on the basis of need.

TABLE 7.—NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS BY STATE, SEPTEMBER 1982

State	Total	Aged	Blind	Disabled
Total [1]	3,907,121	1,588,102	77,678	2,241,341
Alabama [2]	127,630	67,651	1,924	58,055
Alaska [2]	2,967	1,092	54	1,821
Arizona [2]	28,639	10,294	596	17,749
Arkansas	72,101	37,357	1,438	33,306
California	667,769	282,083	17,801	367,885
Colorado [2]	28,538	11,025	385	17,128
Connecticut [2]	23,012	6,535	426	16,051
Delaware	6,760	2,174	169	4,417
District of Columbia	14,620	3,915	201	10,504
Florida	169,746	79,358	2,796	87,592
Georgia	146,963	63,494	2,875	80,594
Hawaii	9,898	4,532	170	5,196
Idaho [2]	7,281	2,240	110	4,931
Illinois [2]	118,052	30,811	1,935	85,306
Indiana [2]	40,258	12,486	1,179	26,593
Iowa	24,472	9,238	1,013	14,221
Kansas	19,181	6,485	302	12,394
Kentucky [2]	90,998	36,748	2,031	52,219
Louisiana	125,507	55,453	2,069	67,985
Maine	20,137	8,156	290	11,691
Maryland	46,488	14,270	671	31,547
Massachusetts	109,936	55,676	4,949	49,311
Michigan	108,931	31,778	1,913	75,240
Minnesota [2]	29,762	10,792	641	18,329
Mississippi	109,554	55,957	1,791	51,806
Missouri [2]	77,808	33,065	1,265	43,478
Montana	6,535	1,950	131	4,454
Nebraska [2]	12,919	4,412	228	8,279
Nevada	6,663	3,307	465	2,891
New Hampshire [2]	5,151	1,737	120	3,294
New Jersey	82,835	29,464	1,129	52,242
New Mexico [2]	24,349	9,448	457	14,444
New York	340,213	118,765	3,996	217,452
North Carolina [2]	133,166	56,854	2,957	73,355
North Dakota [2]	5,856	2,676	82	3,098
Ohio	113,805	29,249	2,306	82,250
Oklahoma [2]	60,383	28,501	950	30,932
Oregon [2]	21,876	6,529	502	14,845
Pennsylvania	153,322	48,908	3,040	101,374
Rhode Island	14,509	5,312	214	8,983
South Carolina [2]	80,267	34,327	1,851	44,089
South Dakota	7,750	3,302	147	4,301
Tennessee	124,515	53,525	1,977	69,013
Texas [3]	245,345	130,021	4,194	111,130
Utah [2]	7,541	2,081	168	5,292
Vermont	8,531	3,144	122	5,265
Virginia [2]	78,222	31,209	1,399	45,614
Washington	43,047	13,062	595	29,390
West Virginia [2]	39,147	11,627	636	26,884
Wisconsin	61,851	25,032	958	35,861
Wyoming [2]	1,680	637	40	1,003
Unknown	14	5	1	8

TABLE 7.—NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS BY STATE, SEPTEMBER 1982—Continued

State	Total	Aged	Blind	Disabled
Other:				
Northern Mariana Islands[3]	621	353	19	249

[1] Includes persons with Federal SSI payments and/or federally administered State supplementation, unless otherwise indicated.
[2] Data for Federal SSI payments only; State has State-administered supplementation.
[3] Data for Federal SSI payments only; State supplementary payments not made.

Source: Office of Research and Statistics, Social Security Administration.

E. Unemployment Compensation Provisions (Title V)

1. OVERVIEW

A. EXTENSION OF FEDERAL SUPPLEMENTAL COMPENSATION (FSC) PROGRAM

The Committee bill extends the FSC program for 6 months, from April 1, 1983 through September 30, 1983.

Effective April 1, 1983, FSC benefits would be payable as follows:

(1) *Basic FSC benefits:* Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of: 14 weeks in States with IUR 6.0 or above; 13 weeks in States with IUR 5.0 to 5.9; 11 weeks in States with IUR 4.5 to 4.9; 10 weeks in States with IUR 3.5 to 4.4; 8 weeks in all other States.

(2) *Additional FSC benefits:* Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks equal to three-fourths of the basic FSC entitlement payable in the State, up to a maximum of: 10 weeks in the 14 basic week States; 8 weeks in the 13 and 11 basic week States; 6 weeks in the 10 and 8 basic week States.

(3) Individuals who begin receiving FSC before April 1, and have some FSC entitlement remaining after that date, could also recieve additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

B. OPTION FOR VOLUNTARY HEALTH INSURANCE PROGRAM

States would be provided the option of deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits.

C. TREATMENT OF CERTAIN ORGANIZATIONS WHO WERE RETROACTIVELY GRANTED 501(C)(3) STATUS

Under certain specified conditions, a nonprofit organization that was retroactivley granted 501(c)(3) status, and that elects to switch from the contribution to the reimbursement method of financing unemployment benefits, would be allowed to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method.

2. COMPARISON WITH PRESENT LAW

Issue	Current law	Committee bill
a. Extension of Federal Supplemental Compensation (FSC) program.	Under the current FSC program, which became effective on September 12, 1982, and expires March 31, 1983, additional weeks of Federally financed unemployment compensation benefits are provided to jobless workers who have exhausted all other State and Federal unemployment benefits. The number of weeks of FSC benefits that jobless workers may receive depends on (a) the number of weeks of State unemployment benefits received by each claimant, and (b) the State in which the claimant lives. As originally enacted, the FSC program provided, depending upon insured unemployment rates (IUR),[1] a maximum of 10, 8, or 6 additional weeks of benefits. As amended by provisions contained in the Surface Transportation Assistance Act of 1982 (P.L. 97-424), beginning with the week of January 9, 1983, the FSC program provides the following maximum weeks of benefits: (1) 16 weeks in States with an insured unemployment rate (IUR) of at least 6.0 percent; (2) 14 weeks in States that were triggered on the extended benefits program between June 1, 1982 and January 6, 1983; (3) 12 weeks in the remaining States that have an IUR of at least 4.5 percent; (4) 10 weeks in the remaining States that have an IUR between 3.5 percent and 4.5; and (5) 8 weeks for all other States. The number of weeks of FSC a qualified individual may receive is the lesser of 65 percent of the number of weeks of regular State benefits he received or the maximum number of weeks of FSC payable in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in his former State.	The FSC program is extended for 6 months, from April 1, 1983 through September 30, 1983. Effective April 1, 1983, FSC benefits would be payable as follows: (a) Basic FSC benefits: Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of: 14 weeks in States with IUR 6.0 or above; 13 weeks in States with IUR 5.0 to 5.9; 11 weeks in States with IUR 4.5 to 4.9; 10 weeks in States with IUR 3.5 to 4.4; 8 weeks in all other States. (b) Additional FSC benefits: Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks equal to three-fourths of the basic FSC entitlement payable in the State, up to a maximum of: 10 weeks in the 14 basic week States; 8 weeks in the 13 and 11 basic week States; 6 weeks in the 10 and 8 basic week States. (c) Individuals who begin receiving FSC before April 1, and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

2. COMPARISON WITH PRESENT LAW—Continued

Issue	Current law	Committee bill
	1. Insured Unemployment Rate (IUR): the percentage of workers covered under the State unemployment compensation law who are claiming State unemployment benefits in a particular week; measured for extended benefit and FSC trigger rate purposes as the average over a moving 13 week period.	
b. Option for Voluntary Health Insurance Deduction from Unemployment Benefits.	Section 3304(a)(4) of the Federal Unemployment Tax Act prohibits States from withdrawing money from the State unemployment trust fund for anything except the payment of unemployment compensation benefits or to refund certain taxes erroneously paid by employers.	Provides States the option of deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits.
c. Treatment of Certain Organizations Who Were Retroactively Granted 501(c)(3) Status.	Unemployment insurance coverage was extended to employees of certain nonprofit organizations in 1970 and then extended to employees of generally all nonprofit organizations in 1976. Under the 1970 and 1976 amendments, nonprofit organizations were given the option of financing unemployment benefits paid to their former employees through the State unemployment payroll tax system that applies to private employers (contribution method) or by retroactively reimbursing the State trust fund for the amount of benefits paid to their former employees (reimbursement method). Nonprofit employers who had voluntarily covered their employees prior to the 1970 or 1976 amendments and financed benefit costs by the contribution method, and after enactment of the 1970 or 1976 amendments chose to switch to the reimbursement method of financing, were permitted to apply any accumulated balance in their accounts toward costs incurred in the future and paid for on a reimbursement basis. The authority to make such a transfer, however, was available for a limited period of time that expired shortly after enactment of the 1976 and 1970 amendments.	Allows a nonprofit organization that elects to switch from the contribution to the reimbursement method of financing unemployment benefits to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method, under the following conditions: (1) the organization did not elect to switch to the reimbursement method under prior authority because during these periods the organization was treated as a 501(c)(4) organization by the IRS, but the organization has been subsequently determined by the IRS to be a 501(c)(3) organization; and, (2) the organization elects to switch to the reimbursement method before the earlier of 18 months after such election was first available to it under State law or January 1, 1984.

3. SECTION-BY-SECTION

PART A, SECTIONS 501-510: FEDERAL SUPPLEMENTAL COMPENSATION

States provide unemployment compensation benefits to unemployed individuals who meet the qualifying requirements of State law. These beneifts are financed by employer-paid, State unemployment payroll taxes.

In all States, in order to receive State benefits, an individual must have earned a specified amount or wages and/or worked for a certain period of time prior to filing for unemployment compensation. There is, however, substantial variation among the States in the amount of previous earnings or employment necessary to qualify for benefits. In addition to the prior work or earnings requirement, to qualify for State benefits the claimant must have been "involuntarily" terminated from his most recent job; he must be able to work, available for work, and seeking work; and he must not refuse an offer of suitable employment.

Most States provide up to a maximum of 26 weeks of State unemployment compensation benefits to unemployed individuals who meet the qualifying requirements of State law. Many claimants qualify for less than the maximum 26 weeks, and in seven (7) States claimants may receive more than 26 weeks of State benefits. The number of weeks a claimant may draw benefits (except in the eleven "uniform duration" States) and the amount of his or her weekly unemployment payment varies with the level of wages or length of employment prior to the filing for benefits.

FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION BENEFITS

Under the permanent Federal-State extended unemployment compensation benefits program, additional weeks of unemployment compensation are payable to individuals who exhaust their State benefits during periods of high unemployment. Extended benefits are financed 50 percent from State unemployment taxes and 50 percent from Federal unemployment taxes.

Under the extended benefits program, an individual may receive additional weeks of benefits equal to one-half of the number of weeks of State benefits to which he or she was entitled. No one, however, may receive more than 13 weeks of extended benefits, or a combined total of more than 39 weeks of State plus extended benefits.

Extended benefits are payable in a State when, over a moving 13 week period, the State insured unemployment rate (IUR—the percentage of workers covered by the State unemployment compensation program who are claiming State benefits in a particular week) averages at least 5 percent and, in addition is at least 20 percent higher than the State IUR during the comparable period in the two prior years. When the "20 percent" factor is not met, a State, at its option, may provide extended benefits when the State IUR reaches 6 percent. Thirty-nine (39) States have incorporated the optional 6 percent "trigger" into their State law.

FEDERAL SUPPLEMENTAL COMPENSATION (FCS)

The Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) established the FSC program. This program provides additional weeks of unemployment compensation at the same weekly benefit amount to individuals who have exhausted their State benefits and any extended benefits to which they are entitled. The FSC program, which became effective on September 12, 1982, expires March 31, 1983.

As originally enacted, the FSC program provided 10, 8, or 6 additional weeks of benefits. The Surface Transportation Assistance Act of 1982 (Public Law 97-424) increased the maximum number of weeks of FSC benefits to 16, 14, 12, or 8, depending on the State where the individual filed for or received the additional benefits.

Beginning with the week of January 9, 1983, the FSC program provides the following maximum weeks of benefits:

(1) 16 weeks in States with an insured unemployment rate (IUR) of at least 6.0 percent (measured as the average over a moving 13 week period);

(2) 14 weeks in States that were triggered on the extended benefits program between June 1, 1982 and January 6, 1983;

(3) 12 weeks in remaining States with a 13 week average IUR of at least 4.5 percent;

(4) 10 weeks in remaining States with a 13 week average IUR between 3.5 and 4.5 percent; and

(5) 8 weeks in all other States.

In order to be eligible for these benefits, an individual must have exhausted his regular State benefits and any extended benefits to which he was entitled; he has to meet all requirements for State and extended benefits; and, (1) his benefit year must have ended on or after June 1, 1982, or (2) he must have been eligible for extended benefits for any week beginning on or after June 1, 1982.

When an individual is determined to be eligible for State unemployment compensation benefits, he generally has 52 weeks, known as the benefit year, in which to collect the benefits to which he is entitled. In most States, the benefit year begins with the first week for which a valid claim for benefits was filed. Therefore, in most States, if an individual first filed a valid claim for unemployment compensation benefits for a week beginning on or after June 1, 1981, he should be eligible for FSC benefits. If an individual's benefit year ends before June 1, 1982, but he was eligible to receive extended benefits for any week beginning on or after June 1, 1982, he should be eligible for FSC benefits.

If an individual is eligible for FSC benefits, the number of weeks of FSC he may receive is determined in relation to the number of weeks of regular State benefits to which he was entitled. An eligible individual may receive FSC for the lesser of (a) 65 percent of the number of weeks of regular State benefits to which he was entitled or (b) the maximum number of weeks of FSC benefits provided in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in his former State.

EXTENSION OF FSC THROUGH SEPTEMBER 30, 1983

Sections 501–510 of the bill extend the FSC program, which will expire on March 31, 1983, for six months, or until September 30, 1983, and make certain modifications in the program. Under this extension, effective April 1, 1983, FSC benefits will be payable as follows:

(a) *Basic FSC benefits:* Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of: 14 weeks in States with 13 week average IUR 6.0 or above; 13 weeks in States with 13 week average IUR 5.0 to 5.9; 11 weeks in States with 13 week average IUR 4.5 to 4.9; 10 weeks in States with 13 week average IUR 3.5 to 4.4; and, 8 weeks in all other States.

(b) *Additional FSC benefits:* Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks equal to three-fourths of the basic FSC entitlement payable in the State, up to a maximum of: 10 weeks in the 14 basic week States; 8 weeks in the 13 and 11 basic week States; and, 6 weeks in the 10 and 8 basic week States.

(c) Individuals who begin receiving FSC before April 1, and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

In response to the alarming rate of unemployment, and the terrible hardship faced by the millions of unemployed, in August of last year the Congress passed the temporary Federal Supplemental Compensation (FSC) program described above. This program was enacted for six months and will expire on March 31, 1983.

When enacted, it was hoped that strong signs of economic recovery would emerge during the program's six month duration creating new employment opportunities. FSC was intended to "bridge the gap" for jobless workers until new employment became available.

Unfortunately, the unemployment rate remains above 10 percent. 12 million Americans are out of work. Most areas of the country are continuing to face record levels of unemployment. Thousands of jobless workers are exhausting their State and extended benefits each week and are depending on the additional weeks of benefits provided under the temporary FSC program in order to provide for themselves and their families until they find employment. It is therefore necessary, as provided in this section, to extend the FSC program for six months beyond the current expiration date.

It is estimated that, by April 1, 1983, 1.2 million unemployed workers will have exhausted the FSC benefits to which they were entitled. A simply extension of the current FSC program will not help these individuals. Furthermore, recent unemployment statistics indicate that as the economy improves, it is the short-term unemployed who tend to be rehired first. For these reasons, along with extending the basic FSC program, this section provides additional weeks of benefits for individuals who have or soon will exhaust their FSC benefits. These additional weeks of benefits will help those individuals who have been unemployed for the longest period of time and who appear to be among those in the greatest need of assistance.

The following tables provide information on the number of weeks of FSC benefits that will be payable to individuals in different States under the extension of the program provided in this section.

TABLE 1.—MAXIMUM NUMBER OF BASIC AND ADDITIONAL WEEKS OF FSC PAYABLE AFTER APR. 1, 1983, UNDER EXTENSION CONTAINED IN COMMITTEE BILL, AS OF FEB. 12, 1983, FSC TRIGGER RATE [1]

State	Average 13 week insured unemployment rate (IUR) as of Feb. 12, 1983	Maximum number of basic weeks of FSC payable after Apr. 1, 1983, under committee bill [2]	Maximum number of additional weeks of FSC payable to individuals who exhausted or began receiving FSC prior to Apr. 1, 1983 [2]
Alabama	6.52	14	10
Alaska	8.55	14	10
Arizona	4.35	10	6
Arkansas	7.03	14	10
California	[3] 5.67	13	8
Colorado	3.94	10	6
Connecticut	4.01	10	6
Delaware	[3] 3.73	10	6
District of Columbia	3.88	10	6
Florida	2.55	8	6
Georgia	3.67	10	6
Hawaii	3.46	8	6
Idaho	8.05	14	10
Illinois	6.43	14	10
Indiana	5.77	13	8
Iowa	5.28	13	8
Kansas	4.45	10	6
Kentucky	6.99	14	10
Louisiana	5.77	13	8
Maine	5.57	13	8
Maryland	4.76	11	8
Massachusetts	4.55	11	8
Michigan	8.01	14	10
Minnesota	4.82	11	8
Mississippi	6.90	14	10
Missouri	4.97	11	8
Montana	6.09	14	10
Nebraska	3.64	10	6
Nevada	5.56	13	8
New Hampshire	3.34	8	6
New Jersey	4.98	11	8
New Mexico	4.53	11	8
New York	4.33	10	6
North Carolina	5.15	13	8
North Dakota	4.78	11	8
Ohio	[3] 6.59	14	10
Oklahoma	[3] 4.12	10	6
Oregon	7.44	14	10
Pennsylvania	8.06	14	10
Puerto Rico	8.67	([4])	10
Rhode Island	6.26	14	10
South Carolina	5.89	13	8

TABLE 1.—MAXIMUM NUMBER OF BASIC AND ADDITIONAL WEEKS OF FSC PAYABLE AFTER APR. 1, 1983, UNDER EXTENSION CONTAINED IN COMMITTEE BILL, AS OF FEB. 12, 1983, FSC TRIGGER RATE [1]—Continued

State	Average 13 week insured unemployment rate (IUR) as of Feb. 12, 1983	Maximum number of basic weeks of FSC payable after Apr. 1, 1983, under committee bill [2]	Maximum number of additional weeks of FSC payable to individuals who exhausted or began receiving FSC prior to Apr. 1, 1983 [2]
South Dakota	2.83	8	6
Tennessee	5.31	13	8
Texas	3.04	8	6
Utah	5.78	13	8
Vermont	6.03	14	10
Virginia	2.79	8	6
Virgin Islands	4.49	10	6
Washington	7.28	14	10
West Virginia	10.00	14	10
Wisconsin	7.08	14	10
Wyoming	5.51	13	8

[1] The FSC trigger rate is the State insured unemployment rate—the percentage of workers covered under the State unemployment compensation law who are claiming State unemployment benefits in a particular week—averaged over a moving 13-week period. It is updated, and subject to change, on a weekly basis. Therefore, the number of weeks of FSC payable in any State when the extension takes effect on Apr. 1, 1983, could be different from that shown below, which is based on the FSC trigger rate as of Feb. 12, 1983.

[2] Individuals who exhaust FSC on or before Apr. 1, 1983, could receive additional weeks of FSC benefits equal to ¾ of the basic FSC entitlement up to a maximum of: 10 weeks in 14 basic week States; 8 weeks in 13 and 11 basic week States; 6 weeks in 10 and 8 basic week States.

Individuals who begin receiving FSC prior to Apr. 1, 1983, and who have FSC entitlement after that date could also receive additional weeks. However, the combination of their remaining basic FSC entitlement received after Apr. 1, 1983, plus additional weeks cannot exceed the maximum number of weeks of basic FSC benefits payable in the State after Apr. 1, 1983.

[3] IUR rate as of Feb. 5, 1983.

[4] 13 weeks FSC due to 20 weeks regular duration.

TABLE 2.—MAXIMUM NUMBER OF WEEKS OF FSC PAYABLE AFTER APR. 1, 1983, UNDER EXTENSION CONTAINED IN COMMITTEE BILL AND UNDER CURRENT LAW, AS OF FEB. 12, 1983, FSC TRIGGER RATE [1]

State	Average 13 week insured unemployment rate (IUR) as of Feb. 12, 1983	Maximum No. of weeks of FSC payable after Apr. 1, 1983, under committee bill [2]	Maximum No. of weeks of FSC under current law
Alabama	6.52	14	16
Alaska	8.55	14	16
Arizona	4.35	10	14
Arkansas	7.03	14	16
California	[3] 5.67	13	14
Colorado	3.94	10	10
Connecticut	4.01	10	10
Delaware	[3] 3.73	10	14
District of Columbia	3.88	10	10
Florida	2.55	8	8
Georgia	3.67	10	10
Hawaii	3.46	8	10
Idaho	8.05	14	16
Illinois	6.43	14	16
Indiana	5.77	13	14
Iowa	5.28	13	14
Kansas	4.45	10	14
Kentucky	6.99	14	16

TABLE 2.—MAXIMUM NUMBER OF WEEKS OF FSC PAYABLE AFTER APR. 1, 1983, UNDER EXTENSION CONTAINED IN COMMITTEE BILL AND UNDER CURRENT LAW, AS OF FEB. 12, 1983, FSC TRIGGER RATE [1]—Continued

State	Average 13 week insured unemployment rate (IUR) as of Feb. 12, 1983	Maximum No. of weeks of FSC payable after Apr. 1, 1983, under committee bill [2]	Maximum No. of weeks of FSC under current law
Lousiana	5.77	13	14
Maine	5.57	13	14
Maryland	4.76	11	14
Massachusetts	4.55	11	14
Michigan	8.01	14	16
Minnesota	4.82	11	14
Mississippi	6.90	14	16
Missouri	4.97	11	14
Montana	6.09	14	16
Nebraska	3.64	10	10
Nevada	5.56	13	14
New Hampshire	3.34	8	8
New Jersey	4.98	11	14
New Mexico	4.53	11	14
New York	4.33	10	10
North Carolina	5.15	13	14
North Dakota	4.78	11	12
Ohio	[3] 6.59	14	16
Oklahoma	[3] 4.12	10	10
Oregon	7.44	14	16
Pennsylvania	8.06	14	16
Puerto Rico	8.67	([4])	([4])
Rhode Island	6.26	14	16
South Carolina	5.89	13	14
South Dakota	2.83	8	8
Tennessee	5.31	13	14
Texas	3.04	8	8
Utah	5.78	13	14
Vermont	6.03	14	16
Virginia	2.79	8	8
Virgin Islands	4.49	10	14
Washington	7.28	14	16
West Virginia	10.00	14	16
Wisconsin	7.08	14	16
Wyoming	5.51	13	12

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[1] The FSC trigger rate is the State insured unemployment rate—the percentage of workers covered under the State unemployment compensation law who are claiming State unemployment benefits in a particular week—averaged over a moving 13-week period. It is updated, and subject to change, on a weekly basis. Therefore, the number of weeks of FSC payable in any State when the extension takes effect on Apr. 1, 1983, could be different from that shown below, which is based on the FSC trigger rate as of Feb. 12, 1983.

[2] Individuals who exhaust FSC on or before Apr. 1, 1983, could receive additional weeks of FSC benefits equal to ¾ of their basic FSC entitlement up to a maximum of: 10 weeks in 14 basic week States; 8 weeks in 13 basic and 11 week States; 6 weeks in 10 and 8 basic week States.

Individuals who begin receiving FSC prior to Apr. 1, 1983 and who have FSC entitlement after that date could also receive additional weeks. However, the combination of their remaining basic FSC entitlement received after Apr. 1, 1983, plus additional weeks cannot exceed the maximum number of weeks of basic FSC benefits payable in the State after Apr. 1, 1983.

[3] IUR rate as of Feb. 5, 1983.

[4] 13 Weeks FSC due to 20 week Reg. duration.

TABLE 3.—NUMBER OF FSC WEEKS PAYABLE IN STATES WITH IUR 6.0 OR ABOVE: MAXIMUM 14-WEEK BASIC ENTITLEMENT; MAXIMUM 10 ADDITIONAL WEEKS

Number of weeks drawn before Apr. 1	Apr. 1.	Number of weeks available after Apr. 1			Total FSC weeks (weeks received before weeks payable after Apr. 1)
		Basic entitlement	Additional weeks	Maximum payable after Apr. 1	
(1)	(2)	(3)	(4)	(5)	(6)
0		14	0	14	14
1		13	1	14	15
2		12	2	14	16
3		11	3	14	17
4		10	4	14	18
5		9	5	14	19
6		8	6	14	20
7		7	7	14	21
8		6	8	14	22
9		5	9	14	23
10		4	10	14	24
11		3	10	13	24
12		2	10	12	24
13		1	10	11	24
14 or more		0	10	10	24

TABLE 4.—NUMBER OF FSC WEEKS PAYABLE IN STATES WITH IV 5.0–5.9: MAXIMUM 13-WEEK BASIC ENTITLEMENT; MAXIMUM 8 ADDITIONAL WEEKS

Number of weeks drawn before Apr. 1	Apr. 1	Number of weeks available after Apr. 1			Total FSC weeks (weeks received before plus weeks payable after Apr. 1)
		Basic entitlement	Additional weeks	Maximum payable after Apr. 1	
(1)	(2)	(3)	(4)	(5)	(6)
0		13	0	13	13
1		12	1	13	14
2		11	2	13	15
3		10	3	13	16
4		9	4	13	17
5		8	5	13	18
6		7	6	13	19
7		6	7	13	20
8		5	8	13	21
9		4	8	12	21
10		3	8	11	21
11		2	8	10	21
12		1	8	9	21
13 or more		0	8	8	21

TABLE 5.—NUMBER OF FSC WEEKS PAYABLE IN STATES WITH IUR 4.5 TO 4.9: MAXIMUM 11-WEEKS BASIC ENTITLEMENT; 8 ADDITIONAL WEEKS

Number of weeks drawn before Apr. 1	Apr. 1	Number of weeks available after Apr. 1			Total FSC weeks (weeks received before plus weeks payable after Apr. 1)
		Basic entitlement	Additional weeks	Maximum payable after Apr. 1	
(1)	(2)	(3)	(4)	(5)	(6)
0		11	0	11	11
1		10	1	11	12
2		9	2	11	13
3		8	3	11	14
4		7	4	11	15

TABLE 5.—NUMBER OF FSC WEEKS PAYABLE IN STATES WITH IUR 4.5 TO 4.9: MAXIMUM 11-WEEKS BASIC ENTITLEMENT; 8 ADDITIONAL WEEKS—Continued

Number of weeks drawn before Apr. 1	Apr. 1	Number of weeks available after Apr. 1			Total FSC weeks (weeks received before plus weeks payable after Apr. 1)
		Basic entitlement	Additional weeks	Maximum payable after Apr. 1	
(1)	(2)	(3)	(4)	(5)	(6)
5		6	5	11	16
6		5	6	11	17
7		4	7	11	18
8		3	8	11	19
9		2	8	10	19
10		1	8	9	19
11 or more		0	8	8	19

TABLE 6.—NUMBER OF FSC WEEKS PAYABLE IN STATE WITH IUR 3.5–4.4: MAXIMUM 10-WEEK BASIC ENTITLEMENT; MAXIMUM 6 ADDITIONAL WEEKS

Number of weeks drawn before Apr. 1	Apr. 1	Number of weeks available after Apr. 1			Total FSC weeks (weeks received before plus weeks payable after Apr. 1)
		Basic entitlement	Additional weeks	Maximum payable after Apr. 1	
(1)	(2)	(3)	(4)	(5)	(6)
0		10	0	10	10
1		9	1	10	11
2		8	2	10	12
3		7	3	10	13
4		6	4	10	14
5		5	5	10	15
6		4	6	10	16
7		3	6	9	16
8		2	6	8	16
9		1	6	7	16
10 or more		0	6	6	16

TABLE 7.—NUMBER OF FSC WEEKS PAYABLE IN STATES WITH IUR 3.4 OR LOWER: MAXIMUM 8-WEEK BASIC ENTITLEMENT; MAXIMUM 6 ADDITIONAL WEEKS

Number of weeks drawn before Apr. 1	Apr. 1	Number of weeks available after Apr. 1			Total FSC weeks (weeks received before plus weeks payable after Apr. 1)
		Basic entitlement	Additional weeks	Maximum payable after Apr. 1	
(1)	(2)	(3)	(4)	(5)	(6)
0		8	0	8	8
1		7	1	8	9
2		6	2	8	10
3		5	3	8	11
4		4	4	8	12
5		3	5	8	13
6		2	6	8	14
7		1	6	7	14
8 or more		0	6	6	14

PART B—MISCELLANEOUS PROVISIONS

Section 511: Voluntary health insurance programs permitted

Under current law, Section 3304(a)(4) of the Federal Unemployment Tax Act prohibits States from withdrawing money from the state unemployment compensation benefits or to refund certain taxes erroneously paid by employers.

This section provides that no provision in current law shall be construed to prohibit a State from deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits.

Section 512: Treatment of certain organizations retroactively determined to be described in section 501(c)(3) of the Internal Revenue Code of 1954

Unemployment insurance coverage was extended to employees of certain nonprofit organizations in 1970 and then extended to employees of basically all nonprofit organizations in 1976.

Under the 1970 and 1976 amendments, nonprofit organizations were provided the option of financing unemployment benefits paid to their former employees through the State unemployment payroll tax tystem that applies to private employers (contribution method) or by retroactively reimbursing the State trust fund for the amount of benefits paid to their former employees (reimbursement method).

Nonprofit employers who had voluntarily covered their employees prior to the 1970 or 1976 amendments and financed benefit costs by the contribution method, and after enactment of the 1970 or 1976 amendments chose to switch to the reimbursement method of financing, were permitted to apply any accumulated balance in their accounts toward costs incurred in the future and paid for on a reimbursement basis. The authority to make such a transfer, however, was available for a limited period of time and expired shortly after enactment of the 1976 and 1970 amendments.

This section allows a nonprofit organization that elects to switch from the contribution to the reimbursement method of financing unemployment benefits to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method, under the following conditions:

(1) the organization did not elect to switch to the reimbursement method under prior authority because during these periods the organization was treated as a 501(c)(4) organization by the IRS; but the organization has been subsequently determined by IRS to be a 501(c)(3) organization; and,

(2) the organization elects to switch to the reimbursement method before the earlier of (a) 18 months after such election was first available to it under State law or (b) January 1, 1984.

F. Prospective Payments for Medicare Inpatient Hospital Services (Title VI)

1. GENERAL DISCUSSION

Your Committee's bill includes a major change in the method of payment under medicare for inpatient hospital services. Such services would be paid for on the basis of prospectively determined rates under a new payment system, which generally follows the outline of an Administration proposed plan. A single payment amount would be paid for each type of case, identified by the diagnosis related group (DRG) into which each case is classified.

The bill is intended to improve the medicare program's ability to act as a prudent purchaser of services, and to provide predictibility regarding payment amounts for both the Government and hospitals. More important, it is intended to reform the financial incentives hospitals face, promoting efficiency in the provision of services by rewarding cost/effective hospital practices. In contrast, the cost-based reimbursement arrangements under which medicare has operated in the past lack incentives for efficiency. Subject to some limits on overall payment amounts, the "reasonable cost" reimbursement system simply responds to hospital cost increases by providing increased reimbursement.

In Public Law 97-248, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Congress directed the Department of Health and Human Services to develop recommendations for a system of prospective payment for medicare inpatient hospital services. The department's report was submitted in late 1982, and its recommendations have been embodied in Administration-sponsored legislation. Your Committee's bill is a modified version of the Administration's recommendations.

1. SETTING THE PROSPECTIVE PAYMENT AMOUNT

(a) *Summary.* Under your Committee's bill, the Secretary would be required to prospectively determine a payment amount for each medicare hospital discharge. Discharges would be classified into diagnosis related groups, or DRG's. In order to moderate the impact of the prospective payment proposal on urban and rural hospitals and across different regions of the country, separate payment rates would apply to urban and rural areas in each of the nine census divisions of the country (the 50 States and the District of Columbia). The regional adjustment would no longer apply beginning with payments after the fourth year of the program. As a permanent feature of the system, the DRG rates would be adjusted for area differences in hospital wage levels so that hospitals in high wage areas would receive somewhat larger payments than hospitals in lower wage areas.

The Secretary would be required to study and report to the Congress for each of the early years of the program on the appropriateness and necessity for the regional adjustment. In addition, a study and report, before the end of 1985, would be required on the appropriateness of the urban/rural differential.

The rates established for hospitals would be derived from historical medicare cost data, updated according to a formula for use in fiscal years 1984 and 1985. During these years, the increases in payment rates would be subject to the requirement that expenditures under the prospective payment plan be no greater than those under the reimbursement provisions of the 1982 TEFRA legislation.

In recognition of the difficulty of determining for many years into the future an appropriate rate of increase in inpatient hospital payments, your Committee's bill provides, for years beginning with fiscal year 1986, a different approach to updating payment levels. A panel of independent experts would review the appropriateness of the update formula, taking into account such factors as changes in the hospital marketbasket index, productivity, technological and scientific advances, the quality of health care and utilization of relatively costly though effective methods of care. The Secretary would determine an update factor taking into consideration the expert panel's recommendations.

(b) *The DRG classification system.* The prospective payment system would be based on the diagnosis related groups (DRG) case classification system, which classifies patients into groups that are clinically coherent and homogenous with respect to resource use. The DRG classification system, developed some years ago, has been improved in recent years and represents the most fully developed case classification system representative of a national data base and readily adaptable to a national program. Your Committee recognizes, however, that in developing separate payment rates for each of 467 DRG's, it will be necessary to rely on currently available data sources and to use a sample of cases, e.g., the 20 percent sample of medicare beneficiary bills (MEDPAR) to arrive at the DRG rates. Your Committee expects that the Secretary will use the best data reasonably available to calculate the DRG rates.

The Secretary will calculate a relative price (or weight) for each DRG compared with the average medicare case. (For instance, a craniotomy case may be found to be 3.5 times as expensive as the average case.) This relative price (or weight) will be used to adjust an average medicare cost per discharge figure to obtain the prospective rate for cases within particular DRG's.

Your Committee recognizes that there may be insufficient data to calculate relative prices for some DRG's because of the small number of medicare cases in some DRG's, e.g., obstetrical cases. While this may not have been a problem under the case-mix methodology used in implementing the 1982 TEFRA legislation, it is important in the proposed prospective payment system to establish a rate for every DRG whether or not it is likely that a case will actually occur. Therefore, your Committee recognizes that the Secretary will need to rely on an alternative method for setting the prospective rate for low-volume DRG's—for example, by combining MEDPAR data for several years or by reference to an external source in which these DRG's are more common, e.g., data from State systems.

(c) *Steps in determining DRG payment rates—fiscal year 1984.* The process for determining DRG payment rates for fiscal year 1984 begins with the determination of allowable operating costs of inpatient hospital services for each hospital for the most recent cost reporting period for which data are available. These cost data are updated for fiscal year 1983 by the estimated industry-wide actual increase in hospital costs and further updated for fiscal year 1984 by the hospital marketbasket increase plus one percentage point. The resulting amounts are standardized by excluding an estimate of indirect medical education costs, adjusting for area wage variations, and adjusting for variations in case mix.

The Secretary then computes an average of these standardized amounts for each census division: (i) for all hospitals in urban areas, as currently defined for purposes of the so-called section 223 limits; and (ii) for all hospitals in rural areas.

Each of these average standardized amounts is then reduced to account for the payment that will subsequently be made to specific hospitals of additional amounts for atypical cases ("outliers").

These average standardized amounts are then reduced as may be required to achieve budget-neutrality in relationship to the reimbursement provisions that would have applied under the 1982 TEFRA legislation. In determining budget neutrality for the DRG part of the payment, the Secretary would include in the DRG payment amounts the additional payments for outlier cases, for indirect medical education costs, and for costs of nonphysician services to inpatients previously paid for under part B, and additional payments reflecting other adjustments.

Separate urban and rural DRG-specified rates for each census division are then determined by computing the product of the average standardized amounts described above and the weighting factor for each DRG.

These DRG-specific rates are then adjusted to recognize area wage differences for purposes of determining the payment amount using methodologies for area wage adjustments similar to the current section 223 limits. (The actual revenue to the hospital, in addition to the DRG-specific payment rate, will be influenced by one or more of the following: payment of capital costs and costs of approved educational programs on a reasonable cost basis; an adjustment for indirect teaching costs; additional payment for atypical—outlier—cases; and various exceptions and adjustments.)

(d) *Steps in determining DRG payment rates—fiscal year 1985.* For fiscal year 1985, the process is similar to that for fiscal year 1984, except that previously determined standardized amounts are updated by the marketbasket increase plus one percentage point. A reduction is then made for the value of outlier payments, an adjustment is made to maintain budget neutrality, and so forth.

(e) *Steps in determining DRG payment rates—fiscal year 1986 and later.* For fiscal year 1986 and later, the updating process is similar, except that there is no step in the computation designed to achieve "budget neutrality." Instead, the independent panel discussed above would advise the Secretary regarding the updating factor to be used. By May 1 before the beginning of each fiscal year, the panel would be required to report its recommendations to the Secretary, who would make a determination of the increase factor which will apply. The Secretary would publish a proposed determination (along with the panel's recommendations) in the Federal Register by June 1 and a final decision by September 1.

(f) *Adjustment for atypical cases or outliers.* Your Committee is concerned that under the prospective payment system, there will be cases within each diagnostic category (DRG) that will be extraordinarily costly to treat, relative to other cases within the DRG, because of severity of illness or complicating conditions, that are not adequately compensated for under the DRG payment methodology. Under your Committee's bill, the Secretary would be required to provide additional payments, amounting to not less than 4 percent of total DRG related payments, as outlier payments.

Under your Committee's bill, the Secretary is required to make additional payments in cases where the length of stay in each DRG exceeds, by more than 30 days, the average length of stay for cases within the same DRG. In addition, if a case has some other unusual length of stay or unusual cost, the Secretary may provide for additional payment amounts. Your Committee understands that the Secretary intends to make payments (in addition to the standard DRG payment) for days in excess of the 30 days ("outlier days") at a per diem rate. A per diem rate would be calculated for each DRG by dividing the DRG payment amount by the mean length of stay for the DRG. The Secretary proposes to reimburse at 60 percent of that daily rate for each "outlier" day.

Your Committee understands that amounts reimbursed for the "outlier days" would reduce the DRG payment level across the DRG's.

Your Committee is concerned that using length of stay as the only indicator of extraordinary costliness (as recommended by the Secretary) is inadequate. The Secretary is strongly urged to use some other statistical test to develop a more flexible and responsive outlier policy.

The Secretary's report to Congress on the prospective payment proposal (December 1982) included a discussion of measures of central tendency as it relates to outlier policy. Since the only cases that are currently being considered for additional payment under the outlier policy are extraordinarily *costly* cases, your Committee suggests that the Secretary consider the use, as a way of defining outliers, of the two standard deviation rule. Under this rule, outliers are defined as cases for which costs are outside the boundary of the mean cost per case plus two times the standard deviation of cost per case.

Although not wishing to preclude the Secretary from using other measures, as he or she deems appropriate, your Committee would reiterate that it considers length of stay an important, but not wholly adequate indicator of outliers and thus, suggests some additional measures be considered.

The Secretary would be required to study the appropriateness of the outlier policy, and to include in that study an analysis of the appropriateness of, and necessity for, adjustments in payment rates for extremely short lengths of stay within a DRG, and to report findings to Congress by the end of 1985.

(g) *Public description of methodology and data.* The Secretary would be required to provide for publication in the Federal Register, on or before September 1 before each fiscal year (beginning with fiscal year 1984), of a description of the methodology and data used in computing the DRG payment rates, including any adjustment required to produce budget neutrality in relation to the TEFRA level of medicare reimbursement outlays.

Your Committee believes this requirement for open publication and description of data is important to assure confidence among the affected parties in the integrity of the payment system, the adequacy of the data, and the accuracy of the calculations involved. (Also, as previously noted, for fiscal years after fiscal year 1985, the Secretary would be required to publish in the Federal Register both the determination of increase factors used to determine payment rates, and also the recommendations of the panel of independent experts regarding this matter.)

2. TRANSITION TO THE NEW PROSPECTIVE PAYMENT SYSTEM

(a) *Phase-in.* Payments under the new prospective payment system would not be designed to reflect a hospital's cost situation and therefore can be expected to result in medicare reimbursement gains and losses for hospitals in relation to what they would have received under present law. Therefore, your Committee bill provides for a phase-in period to minimize disruptions that might otherwise occur because of a sudden change in reimbursement policy.

Implementation of the new prospective payment system would be phased in over a 3-year period, starting with each hospital's first accounting year beginning on or after October 1, 1983. During the first year, 25 percent of the payment amount for each case would be determined under the DRG prospective payment methodology; 75 percent of the payment amount would be determined on each hospital's own cost base. During the second year, 50 percent of the payment amount would be determined under the prospective payment methodology and 50 percent on each hospital's own cost base. During the third year, 75 percent of the payment amount would be determined under the prospective payment methodology and 25 percent would be determined on each hospital's own cost base. During the fourth year, 100 percent of the payment amount would be determined under the DRG payment methodology.

The portion of a hospital's payment determined on its own cost base would be calculated as though the hospital's target amount under the 1982 TEFRA legislation were its payment amount (that is, without application of the provisions under which a hospital retains only a portion of its cost-per-case savings below the target amount and medicare pays any portion of the hospital's cost per case in excess of the target amount, and without regard to the exceptions, exemptions and adjustments which may have been authorized under TEFRA for that year). The payment amount, like the target amount under present law, is projected from the hospital's cost base. Because the payment can be determined without reference to the hospital's costs in the current year, it can be prospectively determined.

The calculation of this part of the hospital's payment for hospital accounting periods beginning on or after October 1, 1983 and on or after october 1, 1984 would be subject to the so-called section 223 limits. For hospital accounting periods beginning on or after October 1, 1985, cost data would not be available for use in determining the section 223 limits and no section 223 limit would be applied. For the two years in which the section 223 limits are applicable, the section 223 exemptions, exceptions and adjustments would not be applicable. However, your Committee's bill provides new authority for exceptions and adjustments under which relief, if appropriate, could be provided.

Your Committee understands that there will be a relatively small number of hospitals for which there is no historical cost experience on which to base a target rate; for example, new hospitals. In this case, your Committee expects the Secretary to make appropriate provision for applying a prospective payment rate. This might be accomplished by using the total cost limit appropriate to the hospital as the hosptial-specific portion of the payment due the hospital during a transition year.

The Secretary would be required to maintain a system of cost reporting during the period of transition to the new prospective payment system and for at least two years after full implementation of the new payment program. Thus, cost data would be available for use in making future adjustments in the DRG system and for other possible uses.

(b) *Unbundling.* Under current law, services provided to medicare beneficiaries who are inpatients of a hospital are generally billed under part A of the medicare program. However, under certain circumstances, payments are made for non-physician services (for example, radiology, laboratory, physical therapy, prosthetics, etc.) which are separately billed by the supplier as a part B service even though they are provided to a hospital inpatient. Thus, under current law, some non-physician services may be billed under part A in one hospital and yet, in another hospital may be billed under part B of the program.

Your Committee's bill would provide, effective October 1, 1983, that all non-physician services provided in an inpatient setting would be paid only as inpatient hospital services under part A with some adjustments discussed below, as the Secretary deems appropriate.

The DRG rate covers inpatient services. However, your Committee is concerned that in providing a single, inclusive, payment rate for non-physician services under the prospective payment system, it would be inequitable to allow one hospital, which has many billing arrangements whereby services are reimbursed under part B, to receive the same payment rate as a hospital that provides all services under part A.

The Secretary is given authority to waive these restrictions, and to provide for adjustments in the DRG payment rates, for hospitals which can demonstrate to the Secretary that their practice prior to October 1, 1982, were such that their services were extensively billed independently under part B. Such hospitals could be permitted, by the Secretary, to continue such billing arrangements during the transition period for phasing-in the prospective payment system. Such arrangements would not be recognized once the prospective payment system is fully implemented.

It is the Committee's intent that the Secretary provide for such adjustments only in cases where there will be significant hardship on the part of the hospital. If a hospital has a billing arrangement for one or two services, for example, laboratory services and physical therapy services, it is anticipated by your Committee that such a hospital would, without significant delay, be able to provide adjustments in its contracts to allow payment through the hospital under the DRG rate for such services.

It is your Committee's intent to limit the administrative burden of implementing this provision on the Administration, yet providing some flexibility for hospitals that currently bill under part B for significant proportion of services.

Your Committee bill requires that the Secretary estimate each year amounts that would have been reimbursed under part B for inpatient hospital services (other than physician services) and to include, each year in the base rate for determining the DRG payment rates an approximation of this amount.

3. EXCLUSION OF CAPITAL-RELATED EXPENSES AND RETURN ON EQUITY

(a) *Capital-Related Costs.* Under current law, medicare reimburses hospitals for the reasonable cost of capital. Costs of capital include depreciation, interest and rent.

Under your Committee bill, capital-related costs would be excluded from the prospective payment system. Such costs would continue to be paid on a reasonable cost basis. However, your Committee recognizes that capital expenditures total over 6 percent of medicare hospital payments and that a fully prospective payment system would move away from cost-based reimbursement for capital.

Your Committee recognizes that developing a method to include capital in a prospective payment system will require some additional study. On the other hand, continuing to pay capital based on cost will offer incentives for hospitals to undertake projects which substitute capital costs for labor and other costs included in the DRG payments. For this reason, your Committee bill includes three provisions which will move toward a system of capital payments on a prospective basis.

The first provision required the Administration to undertake a study and make recommendations to the Congress, by December 31, 1983, on a system for setting capital payments on a prospective basis. Your Committee intends that this study review all options for a prospective payment system, including broadening the DRG payment to include a capital component, establishment of limits modeled on section 223 applicable to capital costs only, and the setting of limits on capital on a statewide basis. The Secretary should review the methods used by States with hospital cost control programs—including Maryland, Massachusetts, New York and New Jersey—to determine which State programs provide useful models. The study should also include a discussion of alternative means to ensure that public institutions and other hospitals in inner city and rural areas have adequate capital resources.

Under the second provision, your Committee bill notes that it is the intent of Congress, in implementing a system for including capital-related costs in a prospective payment, that costs related to capital projects initiated on or after March 1, 1983, may be distinguished and treated differently from projects initiated before that date. This provision is to place providers on notice that, in any future prospective capital payment system, only those capital projects initiated before March 1 of this year will be considered old projects. Projects initiated on or after such date may be subject to alternative payment methods for capital costs. This provision is to indicate to hospitals that they should not begin new capital under the assumption that the costs of these projects will continue to be reimbursed on the basis of reasonable costs.

The third provision requires all States to have a section 1122 capital approval agreement in effect within three years. Specifically, your Committee bill provides that, beginning three years after the date of enactment of the bill, medicare will not make payment with respect to any new capital expenditures unless the State in which the hospital is located has a section 1122 agreement with the Secretary, and the capital expenditures have been recommended for approval by the State under the Section 1122 review mechanism.

Since all fifty States now have either a certificate-of-need or section 1122 program in place, this provision should impose no additional burden on the States. This requirement makes it clear that, during the period medicare continues to make payment for capital based on reasonable cost and a new prospective capital payment system is being designed, the States should not eliminate an existing capital review program.

Your Committee intends that the Secretary facilitate the signing section 1122 agreements with the States that now have certificate-of-need programs but not section 1122 programs. The reestablishment of a section 1122 agreement should be especially simple for more than 25 States which once had section 1122 agreements.

The capital provisions of your Committee's bill reflect the need for additional analysis before a system to set capital payments on a prospective basis can be adopted. On the other hand, the bill also stresses the need to ensure that the nation does not experience an inflationary increase in capital projects during the pendency of capital cost reimbursement. Your Committee intends to review the issues relating to hospital capital in greater detail when the Secretary's report is completed.

(b) *Return on Equity.* Under current law, proprietary hospitals receive a return on equity capital invested and used in providing patient care. Equity capital is the net worth of a provider adjusted for those assets and liabilities which are not related to patient care. The rate of return is one and one-half the average rate of interest on special issues of public debt obligations issued to the Hospital Insurance Trust Fund.

Your Committee bill provides for the phase-out of return on equity over the four year period during which the prospective payment system is phased-in. During the first year of the transition, 75 percent of any return on equity amount would be paid, since 75 percent of each payment to a hospital per discharge during that year would be cost-based. During the second year, 50 percent of any return on equity amount per discharge would be cost-based. During the third year, 25 percent of the return on equity would be paid. Beginning with the fourth year, no payments for a return on equity would be paid, since 100 percent of the payments to hospitals would be determined under the prospective payment system.

Your Committee believes that a return on equity is not appropriate under a prospective payment system. The return on equity was seen as a means of attracting investment into the health care system. Your Committee believes that this inducement is no longer necessary. Further, your Committee believes that a payment reflecting a profit is inappropriate in a prospective payment system where the payment no longer represents a hospital's actual costs but is intended as an inducement to a hospital to reduce its costs in order to reap a reward.

Your Committee's intent that the phase-out will represent a real savings to medicare; thus, the provision is outside the budget neutrality of the prospective payment system, and the savings will not be included in the base for computing the DRG payment.

Your Committee bill requires the Secretary to report to the Congress at the same time he or she reports on recommendations with respect to capital-related costs, before the end of 1983, on payment with respect to the return on equity. Your Committee expects the Secretary to analyze the differential impact on hospitals of methods of capital financing, including debt financing and tax-exempt bond financing, for proprietary and non-profit hospitals as well as reporting the impact of alternative methods of financing on the medicare trust fund and the general revenues.

4. DIRECT AND INDIRECT MEDICAL EDUCATION COSTS

Direct and indirect expenses associated with medical education activities would be specifically excluded from payment determinations under the prospective payment system. Medical education expenses, such as the salaries of interns and residents under approved education programs (as defined in current regulation, including nursing education programs), would continue to be paid on the basis of reasonable cost.

In addition, with respect to indirect medical education expenses, an adjustment would be provided equal to twice the teaching adjustment, based on the ratio of residents to beds, that is applied in the so-called section 223 limits on reimbursement under present law. Your Committee strongly believes in the importance of providing this adjustment in the light of serious doubts (explicitly acknowledged by the Secretary in his recent report to the Congress on prospective payment) about the ability of the DRG case classification system to account fully for factors such as severity of illness of patients requiring the specialized services and treatment programs provided by teaching institutions and the additional costs associated with the teaching of residents.

The latter costs are understood to include the additional tests and procedures ordered by residents as well as the extra demands placed on other staff as they participate in the education process. Your Committee emphasizes its view that these indirect teaching expenses are not to be subjected to the same standards of "efficiency" implied under the DRG prospective system, but rather that they are legitimate expenses involved in the postgraduate medical education of physicians which the medicare program has historically recognized as worthy of support under the reimbursement system.

The adjustment for indirect medical education costs is only a proxy to account for a number of factors which may legitimately increase costs in teaching institutions. Your Committee believes that it is important, in addition, to recognize explicitly extraordinary expenses in individual cases, and has therefore required (as discussed elsewhere) an expansion and modification of the Secretary's recommended policy regarding atypical cases or outliers (which it is reasonable to expect would occur more commonly in teaching hospitals than in other hospitals). Finally, in recognition that additional unforseen problems may arise in connection with teaching hospitals, your Committee's bill (as indicated elsewhere) would require the Secretary to make exceptions and adjustments, where appropriate, with respect to payment to teaching hospitals.

5. EXEMPTIONS, EXCEPTIONS AND ADJUSTMENTS

Hospitals that are not included in the prospective payment proposal would be subject to the rate of increase provision as in TEFRA, including the incentive payments. The rate of increase permitted would be marketbasket plus one percent.

(a) *Psychiatric, long-term care, rehabilitation and children's hospitals.* Such hospitals would be specifically exempted from your Committee's prospective payment bill. The DRG system was developed for short-term acute care general hospitals and as currently constructed does not adequately take into account special circumstances of diagnoses requiring long stays.

The definition of rehabilitation hospital will be prescribed in regulations promulgated by the Secretary. The Committee understands that there are currently extensive rules pertaining to rehabilitation hospitals and suggests that the Secretary use such regulations and consult with the Joint Commission of Accreditation of Hospitals in order to define a rehabilitation hospital.

In addition, your Committee's bill would exempt, upon the request of a hospital, distinct part rehabilitation or psychiatric units of acute care hospitals. The Secretary, under current medicare rules and regulations, has prescribed in detail standards and criteria that distinct parts must meet including establishment of separate cost entities for cost reimbursement and requirements that such units have a sub-provider identification number. It is the Committee's intent that psychiatric and rehabilitation distinct part units meet standards as the Secretary may prescribe and it is anticipated by the Committee that such standards would provide for maintenance of standards relating to patient care that are found in psychiatric and rehabilitation hospitals respectively.

(b) *Sole community providers.* The Secretary would be authorized to provide for exceptions and adjustments to take into account the special needs of sole community providers. Your Committee is providing this authority, in order to permit the Secretary to take into account the special circumstances that sole community providers may have.

(c) *Public and other hospitals.* The Secretary would be required to take into account and to make appropriate exemptions, exceptions and adjustments for hospitals that serve a disproportionately large number of medicare and low-income individuals. Concern has been expressed that public hospitals and other hospitals that serve such patients may be more severely ill than average and that the

DRG payment system may not adequately take into account such factors. The Secretary in his report to Congress stated that the Department of Health and Human Services would continue to study ways of taking account of severity of illness in the DRG system. The Committee strongly urges the Secretary to continue these studies. Your Committee bill would require the Secretary to undertake a study of other needs of such hospitals. If upon review the Secretary determines that such exemptions, exceptions or adjustments are appropriate, the Secretary would then be authorized to make such exemptions, exceptions or adjustments.

(d) *Other providers.* The Secretary would be authorized to provide, by regulations, for such exceptions and adjustments as he or she deems appropriate (including those that may be appropriate with respect to public hospitals, teaching hospitals, and hospitals that are extensively involved in cancer treatment and research). In giving the Secretary such authority, your Committee anticipates that an analysis be undertaken to look into the special needs of these providers.

(e) *Alaska and Hawaii.* Your Committee's bill would authorize the Secretary to make exceptions and adjustments to take into account special needs of hospitals located in Alaska and Hawaii. Under current law the Secretary has recognized that Alaska and Hawaii have higher hospital costs than other states and has provided under the Section 223 regulations a special adjustment to take into account these costs. The Committee expects that the Secretary will examine the impact of the prospective payment system on Alaska and Hawaii and after such study determine if such exceptions and adjustments are justified to provide for such exceptions and adjustments.

(f) *Hospitals outside the fifty states.* Your Committee's bill would exempt from the prospective payment system hospitals located in geographic areas outside the fifty States and the District of Columbia but within the United States for purposes of medicare (e.g. Puerto Rico). The Committee is concerned that the cost experience of these hospitals may be so varied that the DRG prospective payment system may not adequately reflect the needs of these hospitals.

(g) *Study on prospective payment for exempt hospitals.* Your Committee's bill would require the Secretary to report to Congress within two years after enactment on whether exempt hospitals should be brought under the prospective payment system and if so, how this should be accomplished.

6. ADMINISTRATIVE AND JUDICIAL REVIEW

Under current law, a provider may request administrative review by the Provider Reimbursement Review Board (PRRB) of a final decision of a fiscal intermediary regarding items on the provider cost report, subject to certain conditions. A provider may appeal the PRRB decision to Federal court or, where it involves a question of law or regulation which the PRRB does not have the authority to review, the provider may appeal directly to Federal court.

Your Committee's bill would provide for the same procedures for administrative and judicial review of payments under the prospective system as is currently provided for cost-based payments. In general, the same conditions, which now apply for review by the PRRB and the courts, would continue to apply.

With respect to administrative and judicial review, your Committee's bill would permit review except in the narrow cases necessary to maintain budget neutrality and avoid adversely affecting the establishment of the diagnosis related groups, the methodology for the classification of discharges within such groups, and the appropriate weighting of such groups.

It is the purpose of your Committee's bill to establish a prospective payment system for medicare. The prospective payment will no longer have any relationship to a hospital's actual costs. Thus, it is your Committee's intent that a hospital would not be permitted to argue that the level of the payment which it receives under the system is inadequate to cover its costs.

The Secretary would be required by your Committee's bill to establish payment amounts in fiscal 1984 and 1985 at a level which will cause the system to be budget neutral in relation to current law. Of necessity, this limitation will require the Secretary, after taking into account adjustment required under the system, to change the basic payment rate to a level which will result in budget neutrality. For example, the Secretary might set the rate at 102 percent rather than 105 percent of the mean. The altering of this basic payment rate to achieve budget neutrality is not reviewable.

Your Committee bill precludes review of the establishment, methodology and weighting of diagnosis related groups because of the complexity of such action and the necessity of maintaining a workable payment system. Thus, neither the definition of the different diagnosis related groups, their weights in relation to each other, nor the method used to assign discharges to one of the groups would be reviewable. Whether there was an error in human judgment in coding an individual patient's case would be reviewable.

7. ADMISSIONS AND QUALITY REVIEW

The Secretary would be required to establish a system for monitoring admissions and discharges of both hospitals receiving prospective payment and of hospitals exempt from prospective payment but continuing to receive payment under the growth rate limitations. In establishing such a system, the Secretary could utilize the Health Care Financing Administration, medicare intermediaries, or professional standards review organizations/professional review organizations (i.e. a utilization and quality control peer review organization with a contract under part B of title XI) or other medical review organization to review admissions, discharges, and quality of care for medicare inpatient hospital services.

In addition, hospitals would be required, as a condition of payment under medicare, to enter into, and maintain, an agreement with a utilization and quality control peer review organization which has a contract with the Secretary under part B of title XI to perform review of admissions, discharges and quality of care with respect to medicare inpatient hospital services. The provision would be effective October 1, 1984.

Under the Tax Equity and Fiscal Responsibility Act of 1982, title XI was revised to require the Secretary to contract with peer review organizations in each area of the country. Subject to certain conditions, the Secretary is permitted under title XI to determine which organization in an area will conduct the most effective review. While the new provisions of title XI became effective October 1, 1983, the Secretary has not yet entered into any agreements under this law. Your Committee's bill would make it clear that the Secretary must begin entering into contracts with review organizations under title XI. If the Secretary has not entered into a contract in an area with an organization, there will be no designated organization with which a hospital can enter into an agreement. It is the intent of the provision, that, if there is no designated organization, the hospital will not receive payment under medicare.

Your Committee believes that the new prospective payment system requires a strong system of medicare review and that title XI is the appropriate mechanism for that review. The Secretary has ample time before October 1, 1984, to implement title XI with no adverse effect on medicare payments to hospitals.

Under title XI, medicare intermediaries may be designated as review organizations, but only beginning 12 months after the Secretary has begun to enter into contracts under that title. This delay was intended to provide a preference for medical review organizations. There is concern that the 12 months will not have run before the effective date of your Committee's provision (October 1, 1984). Thus, your Committee's bill provides that the 12 month waiting period for intermediaries to qualify as review organizations (as specified in section 1153(b)(2)) will begin to run on the date on which the Secretary begins to enter into contracts or on October 1, 1983, whichever is earlier. This would assure that the waiting period would be complete by the effective date of your Committee's provisions.

Concern has been expressed regarding the function and duties of medicare intermediaries in their continuing capacity as intermediaries (as opposed to their role as review organizations) and their interaction with designated review organizations. Therefore, your Committee wishes to make it clear that medicare intermediaries will continue to gather, review and analyze medicare claims data. To minimize the administrative costs of the medicare program, the intermediary will supply such information and in such a format, as defined by the Secretary, as is necessary to support the review organization (designated under title XI) in its review function. This could include collection of claims data by diagnostic code, by provider, by patters of admission, or by any other format deemed necessary to support the review organization.

The Secretary would be authorized to disallow payment and/or terminate participation in medicare, or require a hospital to take corrective actions, where a provider is determined to be engaged in aberrant or unacceptable practices. Specifically, your Committee's bill provides that, if the Secretary determines that a hospital, in order to circumvent the prospective payment method or the rate of growth limitations, has taken an action that results in the admission of medicare beneficiaries unnecessarily, or which results in unnecessary multiple admissions of medicare beneficiaries, or results in inappropriate medicare or other practices, the Secretary may (1) deny payment, in whole or in part, for such admission, or (2) require the hospital to take corrective action. Your Committee wishes to make it clear that any denial of payment or termination which occurs under this provision will be subject to the same rights of appeal as provided under current law.

Because prospective payments will be made on a per admission/per discharge basis, your Committee is concerned that there may be an incentive for hospitals to increase their admissions or reduce the quality or availability of care. Accordingly, the Secretary would be provided with this additional authority to deny payment or terminate providers where they are determined to be engaged in unacceptable practices relating to admissions, lengths of stay, quality of care or other forms of circumvention of the payment system.

The Secretary would also be required to study and report back to the Congress before the end of 1985 on long-range policy changes to limit increase in admissions resulting from the prospective system. The Secretary would be required to include analyses and recommendations on adjustments to the DRG payment rate for increased admissions (such as a volume adjustment) and to report on the development of administrative systems, such as pre-admission certification, to minimize the incentive to increase admissions.

8. STATE COST CONTROL PROGRAMS

Under current law, the Secretary has the authority to establish medicare demonstration projects. The Secretary has used this authority to establish State-wide demonstrations for payment of hospital services in four States—Maryland, New Jersey, New York, and Massachussetts.

In addition, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), authorized the Secretary to make medicare payments under a cost control system established in a State if certain conditions were met. While the provision was effective October 1, 1982, the Secretary had not entered into any agreements with States under this authority as of March 1, 1983.

Under your Committee's bill, the Secretary would be authorized to approve a State cost control system (i.e. grant a medicare waiver) if five conditions were met. For those States which currently have an agreement with the Secretary, the Secretary would be required to continue the State program, upon the expiration of the agreement, if, and for so long as, the five conditions were met. Where any other State system met the first five conditions and six additional conditions, the Secretary would be required to approve the State program.

Your Committee's bill provides that the Secretary would be authorized, at the request of a State, to make medicare payments if the following conditions are met: (1) the system applies to substantially all acute-care non-Federal hospitals in the State; (2) the system applies to the review of at least 75 percent of all revenues or expenses in the State for inpatient hospital services (including medicaid); (3) the Secretary has been provided satisfactory assurances as to the equitable treatment of payors, employees and patients; (4) the Secretary has been provided assurances that under the State system, over a 36-month period, the amount of payments made under the system will not exceed what would otherwise have been spent under medicare; and (5) the Secretary determines that the system will not preclude a Health Maintenance Organization (HMO) or a Competitive Medical Plan (CMP) from negotiating directly with hospitals with respect to the organization's rate of payment for inpatient hospital services.

The first four of the conditions are identical to those provided under TEFRA. The fifth condition was added by your Committee. In would apply with respect to HMOs and CMPs as defined in Section 1876(b).

When considering the conditions which a state system should meet, your Committee determined that HMOs need special treatment because they have unique problems where a cost control system covers all payors within a state. Evidence indicates that use of hospital services by HMO members varies considerably from that of individuals covered under health insurance plans. If an HMO had an average stay of 2.9 days for a specified type of case, but the average for that type of case was 4.2 days, the HMO would be effectively paying at the higher rate. If HMOs are required to pay for hospital care based on utilization practices other than their own, they could be paying for services they do not use.

A second problem HMOs encounter when they cannot negotiate different rates is that they are prevented from offering hospitals certain benefits which only they can offer. For instance, because HMOs determine where their members will be hospitalized, HMOs can create special economies of [illegible] for a hospital or guarantee it a certain level of use. If direct negotiation were not allowed, HMOs could be forced to forego the [illegible] advantages inherent in their mode of organization and operation.

In establishing this exception [illegible] HMOs to negotiate directly with hospitals, your Committee [illegible] that the effectiveness of state cost control systems would [illegible] impaired. However, the Committee recognizes that the ability to negotiate different rates creates a strong incentive for entities other than HMOs and CMPs to attempt to conform to the definition in section 1876(b). If these other entities are permitted to use the exception, state cost control systems would be seriously undermined. Therefore, the Committee expects that the definition in section 1876(b) will be narrowly interpreted.

Your Committee bill places several limitations on the Secretary in the application of the five conditions which must be met for a State to be eligible for a waiver. The Secretary would not be permitted to require that a State system be based upon a DRG payment methodology. While the language of your Committee's bill does not specifically limit the authority of the Secretary under the current demonstration authority with respect to DRGs, your Committee believes that the Secretary should not limit future demonstration projects to systems based on a DRG methodology. Your Committee believes that State systems provide a laboratory for innovative methods of controlling health care costs and should, therefore, not be limited to one methodology.

Under your Committee's bill, the Secretary would be prohibited from requiring that a new State system or a continuation of a current State system produce savings greater than the savings that would have accrued in the State under the Federal medicare payment system. In determining whether the fourth condition comparing the State's expenditures to medicare expenditures to medicare expenditures is met, the Secretary would be permitted to use whatever test he or she determined was appropriate. However, if the Secretary chose to use a test which was based upon rates of increase, whether an inflation factor or the national rate of increase in medicare expenditures, the State would be permitted, at its option, to have the test applied, with respect to medicare inpatient hospital services, either on an aggregate payments basis or on a per admission or discharge basis. If the Secretary chose to use a test based upon the national average percentage rate of increase for medicare inpatient hospital services, the Secretary would not be permitted to require that the State rate of increase in such payments be less than the national average rate of increase.

Your Committee believes that States should be encouraged to develop innovative reimbursement methodologies without being held to a stricter standard than the one imposed under medicare. Without this provision, States may be dissuaded from experimentation, thus limiting the ability of the Congress and others to judge various cost control mechanisms.

Your Committee's bill further provides that the Secretary would be required to approve any State system if, in addition to the first five conditions, the system met the following six conditions: (1) the system is operated directly by the State or an entity designated by law; (2) the system is prospective; (3) the hospitals covered under the system will make such reports as the Secretary may require; (4) the State has provided assurances that the system will not result in admissions practices which will reduce treatment to low income, high cost, or emergency patients; (5) any change in the system which materially reduces payments will only take effect upon 60 days notice to the Secretary and to hospitals; and (6) the State has provided assurances that, in the development of the system, the State has consulted with local government officials concerning the impact of the State system on public hospitals.

Your Committee bill would require the Secretary to respond to requests from States applying under these eleven conditions to respond within 60 days of the date the request is submitted. In addition, it is the intent of your Committee that the Secretary provide the Congress and the State an explanation for the denial of approval of the State program.

Your Committee believes that State cost containment systems have proven effective in reducing the cost of hospital care and that such systems should be encouraged. It is the intent of this provision that the Secretary continue medicare waivers for States which currently have effective demonstration projects and provide an opportunity for new States to develop sound approaches to cost containment. State systems covering all payors have proven effective in reducing health costs and should be encouraged. Such State programs may be useful models for our national system.

Your Committee bill would specifically alter the terms of the New York and Massachusetts medicare demonstration agreements with the Secretary. In the fall of 1982, the State of New York entered into an agreement with the Secretary for a three-year medicare demonstration project, effective January 1, 1983. Under the terms of the New York medicare waiver, the rate of increase in medicare hospital costs in the State was required to be 1.5 percent below the national rate of increase in medicare hospital costs. Massachusetts entered into a similar agreement, effective October 1, 1982. Your Committee bill provides that, upon the request of the State, the Secretary is required to modify the terms of the New York and Massachusetts waivers to eliminate the requirement that the State rate of increase in medicare hospital costs be below the national rate.

The Secretary would be required to quantify and report to the Congress on the overall impact of State systems, assessing not just Medicare but other programs such as Medicaid, the impact of such programs on private health insurance costs and premiums, and on tax expenditures.

Under your Committee's bill and under the current demonstration authority of the Secretary, State systems are required to meet a savings test that is related to medicare. Such systems may also achieve other savings also. There has been an ongoing debate about whether, and how, to quantify or take into account such savings in assessing State systems. Analytic information on all of the types of savings and benefits to the Federal government is not available. Thus, your Committee believes that the Secretary should collect data which will make it possible to quantify the overall savings accuring from the State system and report to the Congress on the impact of such savings.

9. PAYMENTS TO HMOS

Your Committee bill would permit, at its election, and Health Maintenance Organization (HMO) or a Competitive Medical Plan (CMP) that receives medicare payments on a risk basis, to choose to have the Secretary directly pay hospital for inpatient hospital services furnished to medicare enrollees of the HMO or CMP. The payment amount would be at the DRG rate (or on the basis of reasonable cost for services provided in hospitals not covered under the prospective payment proposal) and would be deducted from medicare payments to the HMO or CMP.

10. BENEFICIARY COST SHARING

Under current law, medicare pays all reasonable expenses for the first sixty days of inpatient hospital care mimus a deductible ($304 in 1983) in each benefit period. For days 61–90, a coinsurance amount ($76 in 1983) is also deducted.

Under your Committee's bill hospitals would be prohibited from charging beneficiaries amounts in excess of the statutory deductible and coinsurance the prospective payment rates would be considered payment in full.

11. PHYSICIAN PAYMENTS

Under current law, reimbursment to physicians is based upon reasonable charge under the part B program.

In your Committee bill the Secretary would be required to begin to collect data necessary to compute the amount of physican charges attributable, by diagnosis related groups, to physicians' services furnished to inpatients of hospitals whose discharges are classified within those groups. The Secretary, in addition, would be required to include, in its annual report to Congress in 1984, recommendations on the advisability and feasibility of providing for payments for physicans' services furnished, based on the DRG classification of the discharges of those inpatients.

Your Committee is concerned that physicians have a significant impact on hospital utilization and costs. The Committee, therefore, is requiring the Secretary to begin to collect data and to study the feasibility and appropriateness of, including physician payments under the DRG system. The Committee understands that collection of data in this form will take some time and is thus requiring the Secretary to begin to collect it as soon as possible.

12. STUDIES AND REPORTS

Your Committee's bill would require the Secretary to study and make the following reports to Congress:

At the end of 1983:

1. The method by which capital-related costs associated with inpatient hospital services can be included in the DRG prospective payment rates (see discussion of capital-related costs).
2. The issue of payment for return on equity capital for hospitals receiving payments under the prospective system (see dissussion of return on equity).
3. The impact of the prospective payment system on skilled nursing facilities and recommendations concerning skilled nursing facilities, including payment methods for SNFs. Such report should assess the extent to which the new hospital prospective payment system may have an adverse impact on hospital-based and other SNFs, including incentives for hospitals to shorten patient length of stay, resulting in more patients being discharged into SNFs at an earlier stage in their recovery, possibly causing the costs of SNFs to increase.

Your Committee intends that the report requirement with respect to prospective payment for SNFs which was due December 31, 1982, shall be sent to the Congress at the earliest possible date.

Annually, at the end of each year, from 1984 through 1987, the Secretary would be required to report on the impact of the prospective payment methodology during the previous year on individual hospitals, classes of hospitals, beneficiaries and other payors for inpatient hospital services, and in particular the impact of computing averages by census division rather than on a national average basis. The report should include information on the impact on hospitals serving low-income individuals. Each report must include such legislative recommendations as the Secretary deems appropriate. The Comptroller General must review and comment on the adequacy of each of the reports with respect to his or her analysis of the impact of the prospective payment methodology.

As part of the 1984 report, the Secretary should begin the collection of data necessary to compute the amount of physician charges attributable, by DRGs, to physicians' services furnished to inpatients of hospitals whose discharges are classified within the DRGs. The Secretary must include in the 1984 report, recommendations on the advisability and feasibility of providing for determining the amounts of the payments for physicians' services furnished to hospital inpatients on a DRG-related basis (see physician payments);

As part of the 1985 annual report, the Secretary must include the results of studies on:

1. the feasibility and impact of eliminating or phasing-out separate urban and rural DRG prospective payment rates (see discussion of setting the prospective payment amount);
2. whether and how hospitals which are now not covered under the prospective payment system can be paid for inpatient hospital services on a prospective basis (see discussion of exemptions, exceptions and adjustments);
3. The appropriateness of the factors used to compensate hospitals for the additional expenses of outlier cases (see discussion of setting the prospective payment amount—outliers);
4. The feasibility and desirability of applying the prospective payment methodology to all payors for inpatient hospital services; and
5. the impact of the prospective payment system on hospital admissions and the feasibility of making a change in the prospective payment rate or requiring preadmission certification in order to minimize the incentive to increase admissions (see discussion of admissions and quality review).

As part of the 1986 annual report, the Secretary must include the results of a study examining the overall impact of State systems of hospital payment, particularly focusing on the State system's impact not only on the medicare program but on the medicaid program, on payments and premiums under private health insurance plans, and on tax expenditures (see discussion of state cost control programs).

In addition to the studies and reports specified in your Committee's bill, the Secretary shall conduct a major continuing research program on issues related to medicare program costs and payment methods. The research program shall include payment methods to hospitals as well as payment methods to HMOs and CMPs. Particular attention should be paid to the impact of payment methods to hospitals, and HMOs and CMPs, on quality of care, the use of technology, and the type of technology developed.

It is your Committee's intention that the Secretary conduct a major, independent, multiple-disciplainary research effort, and that such research shall include long-term contracts with two or three university-based applied research centers. The reseach shall focus on issues related to medicare program costs and payment methods and shall include the use of such experts as physicians, economists, statisticians, actuaries, financial and organizational specialists and other relevant disciplines.

The Secretary is directed to study and report on the practical methods of using public disclosure of DRG rates (once capital costs have been included in the system) to enable consumers and others to make useful price comparisons among hospitals. The study should include a discussion of the feasibility and method by which hospitals might publish their charges for non-government payors according to DRG categories.

Although the bill would prohibit hospitals from billing their medicare patients for the difference between their charges and the prospective price, your Committee desires to have the Secretary study the circumstances under which such additional billings might be allowed. Specifically, the Committee is interested in the feasibility and effect of allowing hospitals in an area to charge in excess of the DRG price, up to some maximum amount, where there is a hospital(s), with adequate capacity, in that same area which posts prices equal to or lower than the DRG prices. In order to encourage beneficiary selection of such lower cost hospitals, your Committee desires the Secretary to evaluate also the possibility of reducing beneficiary deductible and copayment amounts where they select hospitals posting prices below medicare DRG prices.

2. Section-by-Section Explanation—Title VI

Section 601 of the Bill amends section 1886 of the Social Security Act ('SSA') to establish a method (the 'DRG prospective rate system') of paying hospitals, for their operating costs of inpatient hospital services, on the basis of rates that are prospectively determined and that vary for each discharge accordingly to the diagnosis-related group (DRG) in which the discharge is classified.

Section 601(a) amends subsection (a) of section 1886 of the SSA to eliminate the so-called medicare 'section 223' limits on inpatient hospital costs for cost reporting periods beginning on or after October 1, 1985, and to clarify that 'operating costs of inpatient hospital services' (to which the DRG prospective rates will apply) does not include capital-related costs or direct medical and nursing education costs.

Section 601(b) amends subsection (b) of section 1886 of the SSA, which now provides for a system of reimbursement ('target rate system') under which hospitals are paid per case based on how their costs compared to individual 'target' costs for different hospital accounting periods. The amendments clarify that the target rate system does not apply to hospitals paid under the DRG prospective rate system, provide that the target rate system would continue to apply to other hospitals after fiscal year 1985, and clarify that the Secretary of Health and Human Services ('the Secretary') would make estimates of hospital marketbasket changes, for purposes of this system and the DRG prospective rate system, *in advance* of the period for which the marketbasket will be applied.

Section 601(c) amends subsection (c) of section 1886 of the SSA, which now provides discretionary authority for the Secretary to provide for medicare payments under a State's hospital reimbursement control system, rather than under medicare rules, if the system meets four requirements: (i) it must apply to substantially all non-Federal acute care hospitals; (ii) it must apply to at least 75 percent of hospital inpatient revenues or expenses; (iii) it must provide equitable treatment of all payors, hospital employees, and hospital patients; and (iv) it must not allow (over 36-month periods) greater expenditures under medicare than otherwise would have occurred in the absence of the system. The bill would also require that such a system not preclude a health maintenance organization or competitive medical plan from negotiating hospital rates directly with hospitals.

The bill would restrict the Secretary's discretion in several respects. First, the Secretary would be prohibited from denying a State's program waiver application on the ground that the State's system is based on a payment method not related to DRGs or on the ground that the system does not result in an actual saving of funds to medicare. Second, if the Secretary uses a percentage increase method (e.g., not allowing costs above a fixed percentage of a previous year's allowable costs) for projecting what is allowable under the State system, the Secretary must permit the State the option of applying that test (for inpatient hospital services) either on an aggregate basis or on a per case basis; and if the Secretary uses the test of limiting a State to the national aggregate rate of increase in medicare expenditures in all the States, the Secretary cannot require a State's rate of increase to be less than the average rate of increase in all the States.

The section also requires the Secretary, if the State system otherwise meets the requirements specified above, to approve the system if the system is currently approved under a demonstration project or if the system meets the following requirements: (i) the system must be operated directly by the State or by an entity designated under State law; (ii) the system must provide for the prospective determination of hospital rates; (iii) hospitals must make such reports (instead of medicare cost reports) as the Secretary may require in order to monitor the State's performance; (iv) the system cannot result in hospitals' changing admissions practices in order to 'dump' or divert patients who cannot pay for their hospital services; (v) significant changes in the system will not be made without 60 days notice to the Secretary and to hospitals likely to be materially affected by the change; and (vi) the system must have been developed in consultation with local governmental officials. The Secretary must respond within 60 days to State applications meeting these latter requirements.

Section 601(d) amends section 1886(d) of the SSA to redesignate and transfer to section 1814 of the SSA provisions relating to allowing the Secretary to eliminate the so-called 'lesser-of-cost-or-charge' provisions in current medicare law.

Section 601(e) adds four new subsections, (d), (e), (f), and (g), described below in detail, to section 1886 of the SSA (which section was originally added to the Tax Equity and Fiscal Responsibility Act of 1983, or 'TEFRA').

Proposed subsection (d) establishes a method for the payment of hospitals for operating costs of inpatient hospital services on the basis of DRG prospective rates. This provision would not apply to hospitals located outside the 50 States and the District of Columbia, psychiatric hospitals, rehabilitation hospitals, children's hospitals, or long-term care hospitals, or (upon request of a hospital) distinct rehabilitation or psychiatric units of the hospital. There is a three-year transition in moving to full implementation of the DRG prospective rate system. In fiscal year 1984, hospitals would receive 75 percent of their payments on the basis of the target rate system established under section 1886(b) of the SSA (but without regard to existing limits on the proportion of additional payments that a hospital will gain or lose, and subject to the hospital's medicare 'section 223' limit under section 1886(a) of the SSA), and would receive the remainder based on the hospital's adjusted DRG prospective payment rate. In fiscal years 1985, and 1986, the percentage covered under the target rate system decreases to 50 percent and 25 percent, respectively, and, beginning with fiscal year 1987, payments to covered hospitals would be based entirely on the hospital's adjusted DRG prospective payment rates.

Paragraph (2) of that subsection describes the process for computing the adjusted DRG prospective payment rate for discharges in fiscal year 1984. The computation proceeds as follows:

(A) The Secretary would compute, based on the cost recent available cost report data, the allowable operating costs of inpatient hospital services for each hospital covered under the system.

(B) The Secretary would update the amounts for fiscal year 1983 using industry-wide data for previous periods and would project for fiscal year 1984 using a formula that reflects the change in the cost of the mix of goods and services that hospitals purchase (hospital marketbasket) plus one percent, the so-called marketbasket plus one factor.

(C) The Secretary would standardize each hospital's amounts to eliminate fluctuations (from the national average) caused by increased costs indirectly attributable to medical education programs, by differences between the average wage level for hospital employees in the area in which the hospital is located and the national average wage level of hospital workers, and by differences between the hospital's case mix and the average case mix of hospitals in the United States.

(D) The Secretary would then compute separate averages for urban hospitals (that is those located in SMSA's or similar areas) and for rural hospitals in each of the nine census divisions throughout the continental United States, Alaska, and Hawaii.

(E) In order to standardize for typical case costs, the Secretary would reduce each of these averages by the proportion (not less than 4 percent) of the DRG payments that is attributable to the extra payments for 'outlier' cases, described in proposed paragraph (5) below.

(F) The Secretary would then adjust each of the averages as may be necessary to assure that the total amounts paid under the DRG prospective rate system, for fiscal years 1984 and 1985, are the same as the portion of the payments which would have been spent under the medicare law as modified by TEFRA, in order to achieve 'budget neutrality'.

(G) The Secretary would then compute DGR-specific rates by multiplying the urban and rural average rates for each of the census divisions by the weighting factor for each DRG, described in proposed paragraph (4) below.

(H) Finally, the Secretary would adjust the part of the payment which reflects wage and wage-related costs to reflect differences between those costs in the area of the hospital and those costs in hospitals in the United States generally.

Paragraph (3) of that subsection provides, in a very similar manner, for the computation of the adjusted DRG prospective rates for discharges occurring after fiscal year 1984. The computation proceeds as follows:

(A) The Secretary would take the urban and rural averages for the previous year (before outlier or budget neutrality adjustments) and increase them by a marketbasket plus one percent factor for fiscal year 1985 and, for later fiscal years, by an appropriate factor (described under subsection (e) below) determined by the Secretary after receiving recommendations from a panel of independent experts. These averages would be made urban and rural areas within each of the census divisions for fiscal years 1985, 1986, and 1987, but would be consolidated for all urban hospitals and for all rural hospitals beginning with fiscal year 1988.

(B) The Secretary would then make the same type of reduction for outlier payments (described in (E) above) as was made in fiscal year 1984.

(C) The Secretary would, for fiscal year 1985 only, then make the same type of adjustment (described in (F) above) as was made in fiscal year 1984 to assure budget neutrality.

(D) The Secretary would then compute DRG-specific rates for urban and rural hospitals (as described in (G) above) within each census division (for fiscal years before fiscal year 1987).

(E) Finally, the Secretary would adjust such rates to reflect differences in area wage levels (as described in (H) above).

Paragraph (4) of that subsection requires the Secretary to classify (and permits the Secretary from time to time to modify the classification of) hospital discharges into diagnosis-related groups (DRG's) and to set up rules for classifying specific discharges into those groups. Based upon the relative hospital resources used in providing care to patients with diagnoses within the different groups, the Secretary would establish a weighting factor for each DRG for use in computing the DRG-specific payment rates.

Paragraph (5) of that subsection requires the Secretary to provide additional payments (comprising at least 4 percent of total DRG-related payments) for outlier cases (that is, cases which are significantly out-of-line with the typical case within the same DRG classification). A case is deemed to be an outlier if its length of stay exceeds by more than 30 days the average length of stay for cases within the same DRG or if it has such other unusual length of stay or unusual costs as the Secretary believes merit a special additional payment amount. In addition and in order to compensate for the additional indirect costs incurred in teaching hospitals, the Secretary is required to make an additional payment in an amount reflecting twice the 6.06 percent factor provided under the current section 223 regulations. The Secretary also is required to provide for exceptions and adjustments to the DRG payment amount to take into account the special needs of public and other hospitals that serve a disproportionate number of low-income and medicare patients, may provide for exceptions and adjustments to take into account the special needs of sole community hospitals and hospitals located in Alaska or Hawaii, and shall provide for such other exceptions and adjustments as may be warranted (including those for public, teaching, and cancer hospitals). In addition, the Secretary is required to provide for an adjustment to reflect the fact that certain inpatient hospital services formerly billed under part B and not included in the base for the system will, because of other changes in the law, no longer be able to be paid for under part B.

Paragraph (6) of that subsection requires the Secretary to publish in the Federal Register, not later than September 1 of each year, the methods under which the Secretary is computing the DRG prospective rate for the following fiscal year.

Paragraph (7) of that subsection prohibits administrative review (including review by the Provider Reimbursement Review Board) and any form of judicial review of the Secretary's determination of any "budget neutrality" adjustment or of the Secretary's establishment (including classification methods and weighting factors) of diagnosis-related groups (DRG's).

Proposed subsection (e) provides that the prospective payment system established under proposed subsection (d) must be "budget neutral" in fiscal years 1984 and 1985; that is, the expenditures under medicare under the new system will be the same as those under medicare as amended by TEFRA. In addition, there would be an assurance during fiscal years 1984 and 1985 that 75 percent and 50 percent, respectively, of the expenditures would be made under the modified target rate system and the remainder would be made under the DRG prospective rate system.

For subsequent fiscal years, the Secretary is required to appoint a panel of independent experts to review hospital marketbasket changes, technological advances, and other factors that influence changes in hospital costs and report to the Secretary on what the appropriate percentage increase for hospitals should be for fiscal years beginning with fiscal year 1986. The Secretary is required, after considering the panel's report, to publish in the Federal Register by June 1 of each year the proposed allowable percentage increase for the following fiscal year and, after opportunity for comment, to publish in final form by September 1 the allowable percentage increase which will apply for the following year. The Secretary is required to continue to maintain, through fiscal year 1988, some system for reporting of hospital cost data.

Proposed subsection (f) requires the Secretary to establish a hospital admission and discharge monitoring system, to assure that hospitals paid on a prospective basis (either under the target rate system or under the DRG prospective rate system) do not "game" the system through inappropriate or multiple admissions, premature discharges, inappropriate classification of discharges, or other inappropriate practices. The Secretary is authorized, in the case of such practices, to deny payment to hospitals (in whole or in part) or to require them to take other appropriate corrective action [(such as preadmission review of all patients)]. A hospital dissatisfied with the Secretary's action has a right to a hearing in the same manner as in the case of denial of payment under analogous provisions of the medicare law.

Proposed subsection (g) prohibits payment of new capital expenditures for hospitals in a State unless, by 3 years after enactment, the State has entered into a "section 1122" capital expenditure review agreement with the Secretary and has recommended approval of the expenditures under that agreement. In addition, the Secretary is required to phase-out, over a three-year period, the allowance for return on equity capital for proprietary hospitals receiving payment under the DRG prospective rate system, so that the amount of the allowance would decrease to 75 percent of the current allowance (for hospital accounting periods beginning in fiscal year 1984) to 50 percent of the current allowance for fiscal year 1985, to 25 percent of the current allowance in fiscal year 1986, and would be eliminated entirely beginning in fiscal year 1987. A later provision in section 603 requires the Secretary to report to the Congress on the return on equity issue by the end of 1983.

Section 602 makes various technical, conforming, and miscellaneous amendments to reflect the fact that most hospitals will be receiving payment for inpatient hospital services on the basis of DRG prospective rates and no longer on the basis of the reasonable cost of providing these services. One provision permits the Secretary, after September 1984, to enter into contracts with fiscal intermediaries to perform functions as peer review organizations. Another provision, effective October 1, 1983, prohibits medicare payments for inpatient hospital services not provided by physicians or the hospital unless the hospital is paid directly for such payments, and requires the provider agreement of hospitals paid under the DRG prospective rate system to provide that the hospital has such arrangements with any outside entity furnishing medicare services to inpatients of the hospital; the Secretary is given authority to waive these restrictions for three years for hospital billing practices in effect before October 1, 1982. Effective October 1, 1984, hospitals receiving payment under an alternative State hospital reimbursement control system or under the DRG prospective rate system are required, as part of their provider agreements, to have an agreement with a utilization and quality control peer review organization (with a contract with the Secretary under part B of title XI of SSA, as amended by TEFRA) to perform utilization review and similar activities with respect to medicare patients; since hospitals cannot remain as medicare providers after October 1, 1984, without such an agreement, the Secretary must provide for contracts with peer review organizations in all parts of the United States not later than that date. Effective October 1, 1983, hospitals receiving prospective payments (either under the target rate system or the DRG prospective rate system) must agree not to charge patients for services for which payment is denied because of an inappropriate admission or medical practice described above. Hospitals receiving payments under the DRG prospective rate system cannot charge their patients for services covered under the system because the hospital provides more costly care than may be paid for under the system.

In addition, the section permits health maintenance organizations to elect to have hospital payments made (under the appropriate payment system) directly to hospitals and subtracted from payments from medicare to the organizations. The Provider Reimbursement Review Board would be authorized to review hospital complaints concerning payment under the DRG prospective rate system, except for the Secretary's determination on any "budget neutrality" adjustment and on factors relating to the DRG system.

Section 603(a) requires the Secretary to make various studies and reports in calendar years 1983 through 1987. By the end of 1983, the Secretary is required to report on an analysis of how capital-related costs can be included in the DRG prospective rate system, what payment should be made for return on equity capital (which payment is phased out under a previous provision), and the impact of the DRG system on skilled nursing facilities. Each annual report in 1984 through 1987 includes an analysis of the impact of the system (in the previous year of its operation) on hospitals, patients, and payors and, in particular, on the effect of the system's providing rates on a census division basis, for urban and rural areas, rather than on a national basis, for urban and rural areas. Each report includes any appropriate legislative recommendations, and the GAO is required to review and comment on the adequacy of the Secretary's impact analysis. During fiscal year 1984, the Secretary is required to begin the collection of data on charges for physician inpatient services, by DRG's, and to include in the annual report for that year recommendations on the feasibility and advisability of providing for the payment of charges for these services on a DRG-related basis. As part of the 1985 annual report, the Secretary is required to include the results of studies concerning eliminating or moderating the effect of providing for separate DRG rates for urban and rural hospitals, whether and how hospitals which are now not covered under the DRG prospective rate system (e.g., psychiatric, rehabilitation, children's, and long-term care hospitals) could be brought under it or a similar system, the appropriateness of the factors used in computing the additional payments for outlier cases, the feasibility and desirability of extending the DRG prospective rate system to all payors, and the impact of the system on increased admissions and methods of minimizing such an adverse impact. As part of the 1986 annual report, the Secretary is required to include the results of a study examining the overall impact of State hospital reimbursement systems, focusing on their "system-wide" impact.

Section 603(b) restates the fact that the changes in medicare law made in the title do not affect the Secretary's authority to continue or develop experiments and demonstration projects. However, the Secretary is directed to modify certain current medicare State demonstration projects so that each of these States is not required to contain the rate of increase in medicare hospital costs in that State below the national average rate of increase of those costs.

Section 603(c) states that Congress, in implementng a system for including capital-related costs under a prospective payment system, intends to provide some distinction between capital projects initiated before March 1, 1983 (old capital) and projects initiated on or after that date (new capital).

Section 604 provides that the changes made by this title, except as specifically described above, apply to hospital cost reporting periods beginning during or after fiscal year 1983. In the case of patients admitted in a reporting period before the effective date and discharged after that date, there is an apportionment of costs between different payment systems. In order to provide for prompt implementation of the DRG prospective rate system, the Secretary is authorized to publish interim regulations by September 1, 1983, which would apply to discharges in fiscal year 1984, and to revise these regulations by December 31, 1983. Any revisions would apply only to discharges occurring 30 days or more after the notice of the revision is provided. The Secretary also can provide for this expedited regulatory process to provide for timely implementation of the provisions relating to exceptions, adjustments, and additional payments under the DRG prospective rate system.

IV. COST ESTIMATES AND ACTUARIAL ANALYSIS

Memoranda on the estimated financial effects of your committee's bill on the social security trust funds were prepared by the Office of the Acutary and are shown in this report. The memoranda, and attached tables, are self-explanatory. The table showing the estimated effects of tax-related provisions of the bill was prepared by the Joint Committee on Taxation.

MARCH 4, 1983.

MEMORANDUM

From: Richard S. Foster, Office of the Actuary, Social Security Administration.

Subject: Estimated Short-Range Financial Effects of H.R. 1900 as Reported by the Committee on Ways and Means on March 4, Based on the 1983 Alternative II–B Assumptions.

The attached tables present the estimated effects on the OASDI and Medicare programs of H.R. 1900 as reported by the Committee on Ways and Means. Table 1 shows the estimated changes in OASDI tax income or benefit outgo in calendar years 1983–89 for the provisions of the bill which have an effect on short-range income and outgo. Table 2 presents similar estimates for the Medicare program (HI and SMI). Table 3 compares the OASDHI tax rate schedules under present law and under H.R. 1900. Table 4 presents the estimated operations of the OASI, DI, and HI Trust Funds under the law as it would be modified by H.R. 1900. All of the estimates are based on the alternative II–B assumptions prepared for use in the 1983 Trustees Report. The HI and SMI estimates were prepared by the Office of Financial and Actuarial Analysis, Health Care Financing Administration.

As reported by the Ways and Means Committee, the major provisions of H.R. 1900 are generally similar to the recommendations of the National Commission on Social Security Reform. In addition, the technical and miscellaneous proposals in H.R. 660 have been incorporated. A complete description of the bill's provisions will be contained in a forthcoming Legislative Bulletin prepared by the Office of Legislative and Regulatory Policy.

One of the provisions of H.R. 1900 would modify the procedures for the investment of trust fund assets. Due to the nature of the proposed changes, together with the extreme sensitivity of investment earnings to the timing of cash flows and to short-term variations in interest rates, it is not possible to include the effects of this provision in our estimates at this time. Such estimates should be available in the near future. Under the alternative II–B assumptions, it is expected that the provision would reduce trust fund interest income somewhat, although the amounts involved would not be very significant relative to the increase in tax and other income provided by H.R. 1900.

Another provision in H.R. 1900 would treat employer payments to a 401(k), 403(b), or "cafeteria" fringe benefit plan as covered earnings under the Social Security program. Our estimates of future Social Security tax income under present law do not explicitly reflect the loss in tax income that would result from a rapid expansion in the number of these plans. Thus it would be misleading to indicate that the tax income projected under present law could be significantly increased if plan payments were made subject to payroll taxes. The estimates shown in this memorandum, accordingly, do not include such effects. It is important to note, however, that a rapid expansion of these plans now appears to be fairly likely. In the absence of the provision in H.R. 1900, the potential reduction in annual OASDHI tax income attributable to such an expansion could easily amount to roughly $1–2 billion within a few years.

As indicated in table 4, under the alternative II–B assumptions the provisions of H.R. 1900 would be sufficient to enable the timely payment of OASDI benefits throughout the short-range projection period. The interfund loans from the HI Trust Fund could be repaid during 1986–88, and the bill's "stabilizer" proposal (effective in 1988) would not be triggered. Thus H.R. 1900 as reported by the Ways and Means Committee would substantially improve the financial outlook for the OASDI program. It must be said, however, that the bill would not offer assurance that the OASDI program would operate satisfactorily under adverse economic conditions. Under alternative II–B, which assumes moderate but steady economic growth, asset levels remain at fairly low levels (relative to annual expenditures) through about 1988. While estimates are not yet available under alternative III, which assumes somewhat slower—but steady—economic growth, it is anticipated that virtually no margin for safety would exist. Thus if actual future economic growth were even slightly slower, on average, than assumed in alternative III, the OASDI Trust Funds would be depleted within the relatively near future. In particular, this result would occur if the economy suffers another recession within the next 5 years or so. Given the nontrivial possibility of such an occurrence, it cannot be said that H.R. 1900 would assure the financial soundness of the OASDI program during this decade.

Under alternative II–B, the HI Trust Fund would continue to decline and would be depleted in about 1990.

Richard S. Foster, F.S.A.,
Acting Deputy Chief Actuary.

Attachments: 4.

TABLE 1.—ESTIMATED CHANGES IN OASDI TAX INCOME OR BENEFIT OUTGO UNDER H.R. 1900 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS, BASED ON 1983 ALTERNATIVE II-B ASSUMPTIONS

[In billions of dollars]

Provision	Calendar year—							
	1983	1984	1985	1986	1987	1988	1989	Total, 1983–89
Increase tax rate on covered wages and salaries		8.6	0.3			14.5	16.0	39.4
Increase tax rate on covered self-employment earnings		1.1	3.1	3.0	3.2	3.7	4.4	18.5
Cover all Federal elected officials and political appointies		(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	.1
Cover new Federal employees		.2	.7	1.2	1.8	2.4	3.1	9.3
Cover all nonprofit employees		1.3	1.5	1.8	2.1	2.6	3.1	12.5
Total for new coverage		1.5	2.2	3.0	4.0	5.0	6.1	21.9
Prohibit State and local government terminations		.1	.2	.4	.6	.8	1.1	3.2
Provide general fund transfers for military service credits and unnegotiated checks	19.7	−.4	−.4	−.3	−.3	−.3	−.3	17.7
Delay benefit increases 6 months	3.2	5.2	5.4	5.5	6.2	6.7	7.3	39.4
Tax one-half of benefits for high income beneficiaries		2.6	3.2	3.9	4.7	5.6	6.7	26.6
Continue benefits on remarriage		(²)	(²)	(²)	(²)	(²)	(²)	−.1
Modify indexing of deferred survivors' benefits			(²)	(²)	(²)	(²)	(²)	(²)
Raise disabled widow(er)'s benefits to 71.5 percent of PIA		−.2	−.2	−.2	−.2	−.3	−.3	−1.4
Pay divorced spouses whether or not worker has retired			(²)	(²)	(²)	(²)	(²)	−.1
Replace 90-percent factor in benefit formula with 61 percent, for individuals receiving pensions from noncovered employment				(³)	(³)	.1	.1	.3
Offset one-third of spouses' noncovered government pension	(²)	(²)	(²)	(²)	(²)	(²)	(²)	−.1
Raise delayed retirement credit, beginning in 1990								
Total for all changes	22.8	18.5	13.9	15.2	18.0	35.7	41.2	165.3

[1] Net additional taxes of less than $50,000,000.
[2] Additional benefits of less than $50,000,000.
[3] Reduction in benefits of less than $50,000,000.

Note.—Estimates shown for each provision include the effects of interaction with all preceding provisions. Totals do not always equal the sum of components due to rounding. Positive figures represent additional income or reductions in benefits. Negative figures represent reductions in income or increases in benefits.

Source: Social Security Administration Office of the Actuary, Mar. 4, 1983.

TABLE 2.—ESTIMATED CHANGES IN MEDICARE INCOME OR OUTGO UNDER H.R. 1900 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS, BASED ON THE 1983 ALTERNATIVE II-B ASSUMPTIONS

[In billions]

Provision	Calendar year							
	1983	1984	1985	1986	1987	1988	1989	Total, 1983–89
Hospital Insurance:								
Provide for prospective hospital reimbursement			$0.2	$2.0	$3.6	$5.2	$7.0	$18.0
Increase tax rate on covered self-employment earnings		$0.4	1.3	1.5	1.6	1.7	1.8	8.3
Cover all nonprofit employees		.3	.4	.5	.5	.6	.7	3.0
Prohibit State and local government terminations		(¹)	.1	.1	.1	.2	.3	.8
Provide lump-sum general fund transfer for military service credits	$3.3	−.1	−.1	−.1	−.1	−.1	−.1	2.5
Total for HI charges	3.3	.6	1.8	3.9	5.8	7.6	9.6	32.6

[1] Additional income of less than $50 million.

Notes: 1. Under H.R. 1900, the financing of the Supplementary Medical Insurance program would be shifted to a calendar year basis. The estimated changes in SMI premium and general revenue income that would result from this shift are as follows (in billions):

	Fiscal year—						
	1983	1984	1985	1986	1987	1988	1989
Change in premium income	−$0.1	([1])	$0.1	$0.2	$0.3	$0.3	$0.3
Change in general revenue income		$0.7	−.2	−.2	−.3	−.2	− 3

It should be noted that these are fiscal year estimates and are based on the assumptions underlying the President's 1984 Budget. Thus they are not directly comparable to other estimates in this memorandum. In addition, the estimates reflect a revision in the language that appears in the bill as reported. This revision would allow the general revenue contribution determined under section 1844(a)(1) to be determined using the June 1983 premium rate and the actuarial rates already promulgated for July 1983 through June 1984.

2. Estimates shown for each provision include the effects of interaction with all preceding provisions. Totals do not always equal the sum of components due to rounding. Positive figures represent additional income or reductions in benefits. Negative figures represent reductions in income or increases in benefits.

Source: Health Care Financing Administration, Office of Financial and Actuarial Analysis, March 4, 1983.

TABLE 3.—TAX RATE SCHEDULES UNDER PRESENT LAW AND UNDER H.R. 1900 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[Percent of taxable earnings]

Calendar year	Present law					Proposed law				
	Total for OASDI and HI	OASI	DI	OASDI	HI	Total for CASDI and HI	OASI	DI	OASDI	HI
					Employees and employers, each					
1982	6.70	4.575	0.825	5.40	1.30	6.70	4.575	0.825	5.40	1.30
1983	6.70	4.575	.825	5.40	1.30	6.70	4.775	.625	5.40	1.30
1984	6.70	4.575	.825	5.40	1.30	7.00	5.200	.500	5.70	1.30
1985	7.05	4.750	.950	5.70	1.35	7.05	5.200	.500	5.70	1.35
1986 to 1987	7.15	4.750	.950	5.70	1.45	7.15	5.200	.500	5.70	1.45
1988 to 1989	7.15	4.750	.950	5.70	1.45	7.51	5.560	.500	6.06	1.45
1990 to 2014	7.65	5.100	1.100	6.20	1.45	7.65	5.600	.600	6.20	1.45
2015 and later	7.65	5.100	1.100	6.20	1.45	7.89	5.840	.600	6.44	1.45
					Self-employed persons					
1982	9.35	6.8125	1.2375	8.05	1.30	9.35	6.8125	1.2375	8.05	1.30
1983	9.35	6.8125	1.2375	8.05	1.30	9.35	7.1125	.9375	8.05	1.30
1984	9.35	6.8125	1.2375	8.05	1.30	14.00	10.4000	1.0000	11.40	2.60
1985	9.90	7.1250	1.4250	8.55	1.35	14.10	10.4000	1.0000	11.40	2.70
1986 to 1987	10.00	7.1250	1.4250	8.55	1.45	14.30	10.4000	1.0000	11.40	2.90
1988 to 1989	10.00	7.1250	1.4250	8.55	1.45	15.02	11.1200	1.0000	12.12	2.90
1990 to 2014	10.75	7.6500	1.6500	9.30	1.45	15.30	11.2000	1.2000	12.40	2.90
2015 and later	10.75	7.6500	1.6500	9.30	1.45	15.78	11.6800	1.2000	12.88	2.90

Source: Social Security Administration, Office of the Actuary, Mar. 4, 1983.

TABLE 4.—ESTIMATED OPERATIONS OF THE OASI, DI, AND HI TRUST FUNDS UNDER H.R. 1900 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS, ON THE BASIS OF THE 1983 ALTERNATIVE II–B ASSUMPTIONS, CALENDAR YEARS 1982–92

[Amounts in billions]

Calendar year	Income					Outgo				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1982	$142.7	$17.6	$160.3	$25.6	$185.9	$142.1	$18.0	$160.1	$36.2	$196.3
1983	150.7	21.0	171.7	44.6	216.4	151.6	17.7	169.4	41.1	210.5
1984	164.4	17.2	181.5	45.7	227.3	162.6	17.9	180.5	46.8	227.3
1985	183.6	18.6	202.2	52.2	254.4	178.6	18.9	197.5	53.0	250.4
1986	198.3	20.2	218.5	62.7	281.2	196.3	20.1	216.4	59.9	276.3
1987	214.8	22.0	236.7	69.6	306.4	213.2	21.3	234.5	67.4	301.9
1988	248.8	23.8	272.7	75.2	347.9	230.8	22.7	253.5	75.9	329.4
1989	273.3	30.8	304.1	74.4	378.5	248.6	24.2	272.9	85.4	358.3
1990	303.5	32.7	336.2	78.7	414.9	266.7	26.0	292.6	95.1	387.7
1991	328.5	35.8	364.3	83.0	447.3	284.4	27.8	312.2	104.9	417.1
1992	354.6	38.8	393.4	87.0	480.5	301.7	29.8	331.6	116.0	447.6

	Net increase in funds					Funds at end of year					Assets at beginning of year as a percentage of outgo during year [1]				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1982	$0.6	−$0.4	$0.2	−$10.6	−$10.3	$22.1	$2.7	$24.8	$8.2	$32.9	15	17	15	52	22
1983	−.9	3.3	2.4	3.5	5.9	21.2	6.0	27.2	11.7	38.8	15	15	15	20	16
1984	1.8	−.8	1.0	−1.1	−.1	23.0	5.2	28.2	10.6	38.8	20	40	22	25	23
1985	5.0	−.2	4.7	−.7	4.0	27.9	5.0	32.9	9.8	42.8	20	34	21	20	21
1986	2.0	.2	2.2	2.8	5.0	30.0	5.1	35.1	12.6	47.7	22	32	22	16	21
1987	1.6	.7	2.2	2.2	4.4	31.5	5.8	37.3	14.8	52.2	21	31	22	19	21
1988	18.0	1.1	19.1	−.7	18.4	49.5	6.9	56.5	14.1	70.6	21	33	22	20	22
1989	24.6	6.6	31.2	−11.0	20.2	74.2	13.5	87.7	3.1	90.8	28	36	29	17	26
1990	36.8	6.7	43.5	−16.3	27.2	111.0	20.2	131.2	−13.2	118.0	36	61	38	3	30
1991	44.1	8.0	52.1	−21.9	30.2	155.1	28.2	183.3	−35.2	148.2	47	82	50	−13	34
1992	52.9	9.0	61.9	−29.0	32.9	208.0	37.2	245.2	−64.2	181.0	60	103	64	−30	39

[1] Assets at beginning of year include OASDI advance tax transfers.

Notes: 1. It is assumed that the lump-sum reimbursement for military service wage credits and unnegotiated checks would be received by July 1, 1983.

2. Income and end-of-year asset figures reflect transfers of assets among the OASI, DI, and HI Trust Funds under the interfund borrowing authority provided by P.L. 97–123. These estimates assume that of the $12.4 billion borrowed by OASI from HI in 1982, $2.5 billion would be repaid in 1986, $4.5 billion in 1987, and $5.4 billion in 1988. The $5.1 billion borrowed by OASI from DI in 1982 is assumed to be repaid in 1989.

3. Under H.R. 1900, and based on this set of assumptions, the HI Trust Fund would be depleted in 1990. Subsequent HI operations as shown above are theoretical.

Estimates of trust fund operations under the OASDI and HI programs as modified by the Committee bill are shown in table 4 of the memorandum from Richard S. Foster. The estimates of assets at the beginning of each year 1984 and later, as a percentage of outgo during the year, that are shown in table 4, reflect the inclusion of January's OASDI tax receipts in the assets at the beginning of the year. The January OASDI tax receipts are included in assets at the beginning of the year because of section 141 of the Committee bill which provides for transfers of each month's OASDI tax receipts from the general fund of the Treasury to the trust funds on the first day of the month. If the January tax receipts were not included in assets at the beginning of the year, the estimated trust fund ratios would be as follows (based on II-B assumptions):

Calendar year	Assets at beginning of year as a percentage of outgo during year				
	OASI	DI	OASDI	HI	Total
1982	15	17	15	52	22
1983	15	15	15	20	16
1984	13	33	15	25	17
1985	13	28	14	20	15
1986	14	25	15	16	15
1987	14	24	15	19	16
1988	14	26	15	20	16
1989	20	29	21	17	20
1990	28	52	30	3	23
1991	39	73	42	−13	28
1992	51	95	55	−30	33

[Memorandum]

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
SOCIAL SECURITY ADMINISTRATION,
March 4, 1983.

Refer to: SNL

From: Francisco R. Bayo, Deputy Chief Actuary.
Subject: Estimates of the Impact of H.R. 1900 on the Long-Range Financial Status of the OASDI System.
To: Mr. Harry C. Ballantyne, Chief Actuary.

The attached table includes long-range estimates for H.R. 1900 as reported by the Committee on Ways and Means based on the 1983 Trustees Report Alternative II-B assumptions. Enactment of this bill will result in a long-range actuarial surplus of 0.03 percent of taxable payroll for OASDI combined. Estimates for individual provisions are shown in the table generally only for those provisions with significant long-range impact on OASDI. However, the impact on OASDI of all provisions of H.R. 1900 as reported is included in the totals.

FRANCISCO R. BAYO, *Deputy Chief Actuary.*

Attachment.

ESTIMATED LONG-RANGE OASDI COST EFFECT OF H.R. 1900 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Sec.	Provision	Effect as percent of payroll		
		OASDI	DI	OASDI
	Present law:			
	Average cost rate	13.04	1.34	14.38
	Average tax rate	10.13	2.17	12.29
	Actuarial balance	−2.92	+.83	−2.09
	Changes included in titles I and III of the bill [1]:			
101	Cover new Federal employees	+.26	+.02	+.28
102	Cover all nonprofit employees	+.09	+.01	+.10
103	Prohibit State and local termination	+.06	+.00	+.06
111	Delay benefit increases 6 months	+.28	+.03	+.30
112	Stabilize trust fund ratio			
113	Eliminate "windfall" benefits	+.03	+.00	+.03
114	Raise delayed retirement credits	−.10		−.10
121	Tax one-half of benefits	+.56	+.05	+.61
123	Accelerate tax rate increase	+.03		+.03
124	Increase tax rate on self-employment	+.17	+.02	+.19
126	Change DI rate allocation	+.98	−.98	
131	Continue benefits on remarriage	−.00	−.00	−.00
132	Pay divorced spouse of nonretired	−.01	−.00	−.01
133	Modify indexing of survivor's benefits	−.05		−.05
134	Raise disabled widow's benefits	−.01		−.01
151	Modify military credits financing	+.01	+.00	+.01
152	Credit unnegotiated checks	+.00	+.00	+.00
329	Tax certain salary reduction plans	+.02	+.00	+.02
338	Modify public pension offset	−.00	−.00	−.00
	Subtotal for the effect of the above provisions [2]	+2.27	−.86	+1.41
	Remaining deficit after the above provisions	−.65	−.03	−.68
	Additional changes relating to long-term financing (Title II of the bill) [3]:			
201	Modify benefit formula after this century	+.39	+.04	+.43
202	Raise tax by 0.24 each after by 2014	+.28		+.28
	Total effect of all of the provisions [4]	+2.94	−.82	+2.12
	After committee bill:			
	Actuarial balance	+.02	+.01	+.03
	Average income	11.96	1.23	13.19
	Average cost rate	11.94	1.22	13.16

[1] The values for each of the individual provisions listed from title I and title III represent the effect over present law and do not take into account interaction with other provisions.

[2] The values in the subtotal for all provisions included in title I and title III take into account the estimated interactions among these provisions.

[3] The values for each of the provisions of title II take into account interaction with the provisions included in title I and title III.

[4] The values for the total effect of H.R. 1900 take into account interactions among all of the provisions of the bill.

Note.—The above estimates are based on the 1983 Trustees Report Alternative II–B assumptions. Individual estimates may not add to totals due to rounding and/or interaction among proposals.

ESTIMATED REVENUE EFFECTS OF CERTAIN TAX RELATED PROVISIONS OF H.R. 1900, AS APPROVED BY THE COMMITTEE ON WAYS AND MEANS

[Millions of dollars]

Provision	Receipts or liabilities [1]	Calendar or fiscal year						Total
		1984	1985	1986	1987	1988	1989	
(1) Taxation of OASDI benefits [2]	[3] CY	2,638	3,183	3,849	4,607	5,505	6,553	26,336
	FY	848	2,807	3,389	4,082	4,883	5,826	21,835
(2) Taxation of Tier I Railroad Retirement Benefits	[4] CY	61	71	81	94	108	124	539
	FY	20	64	74	85	98	113	453
(3) Tax credit for 1984 FICA taxes [2]	CY	4,434						4,434
	FY	3,234	1,200					4,434
(4) SECA provisions: [2]								
Increase in OASDI and HI rates for SECA	CY	4,490	4,361	4,744	4,973	6,133	6,476	31,177
	FY	1,497	4,447	4,489	4,820	5,360	6,247	26,860
SECA credit	CY	−2,028	−1,869	−1,986	−2,082	−2,321	−2,451	−12,737
	FY	−676	−1,975	−1,908	−2,018	−2,162	−2,364	−11,103
Net effect	CY	2,462	2,492	2,758	2,891	3,812	4,025	18,440
	FY	821	2,472	2,581	2,802	3,198	3,883	15,757
(5) Elderly credit and disability income exclusion	CY	(5)	6	6	8	10	11	44
	FY	(5)	(5)	6	7	9	10	37

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[1] CY means calendar year liabilities, FY means fiscal year receipts.

[2] These estimates are consistent with the II–B assumptions used by the Social Security Adminstration in preparing the Trust Fund estimates shown elsewhere in this report.

[3] These amounts are estimated to be transferred to the Social Security Trust Funds during the calendar year shown.

[4] These amounts are estimated to be transferred to the Railroad Retirement Account during the calendar year shown.

[5] Revenue gain of less than $5,000,000.

V. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER THE RULE OF THE HOUSE

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, your Committee states that the bill was approved by a vote of 32 to 3.

In compliance with clause 2(L)(3)(A) of rule XI, your Committee reports that the need for legislation to assure the financial stability and solvency of the social security trust funds, to adjust the SSI benefit standard, to reform the method for reimbursing hospitals under the Medicare program and to extend the Federal Supplemental Compensation Program has been confirmed by oversight investigations conducted by your Committee's Subcommittees on Social Security, Health and Public Assistance and Unemployment Compensation.

In compliance with clause (2)(l)(3)(D) of rule XI, your Committee states that no oversight findings or recommendations have been submitted to your Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(l)(4) of rule XI, your Committee estimates that enactment of the bill will reduce inflationary pressures on the national economy. H.R. 1900 as reported, will reduce Federal spending in fiscal year 1984 by approximately $8.3 billion and by another $62.6 billion from fiscal years 1985 to 1988. The Committee believes that this reduction in the fiscal year 1983 budget deficit as well as the additional reductions in fiscal years 1984 to 1988 will contribute to a reduction in the inflationary pressures in the national economy. In addition, the new medicare reimbursement system is expected to help restrain the rate of increase in hospital costs. To the extent this system furthers that objective, it will help to reduce the inflationary pressures currently inherent in the continuing growth of hospital costs.

In compliance with clause 2(l)(3)(B) of rule XI, your Committee states that the bill reduces tax expenditures by approximately $20 billion between fiscal year 1983 and fiscal year 1989 and that discussion of budgetary authority is contained in the report of the Congressional Budget Office.

In compliance with clause 7(a) of rule XIII, the following statement is made relative to the budget effects of the provisions of H.R. 1900, as reported by your Committee.

With respect to the provisions contained in the bill, your Committee states that it agrees with the estimates of the Congressional Budget Office. These estimates are presented for fiscal years 1983 to 1988 for the unified budget and OASDHI trust funds.

For fiscal years 1986 to 1988, CBO could not estimate the budgetary impact of the prospective payment system because the bill would allow the Secretary of Health and Human Services, as advised by a panel of experts, discretion in setting payment rates for inpatient hospital services. Those rates could be set such that aggregate medicare outlays could increase or decrease. However, if the Secretary increased the overall DRG rate by the price increases for hospital inputs plus one percentage point, the savings relative to the cost based reimbursement system under current law would be $2.6, $6.1, and $8.3 billion for fiscal years 1986, 1987 and 1988 respectively.

The impact of the provisions is sensitive to varying economic projections about wage growth, price increases and unemployment rates. Additional projections under intermediate II-B economic assumptions from the Office of the Actuary, Social Security Administration, are also included on a calendar year basis from 1983 to 1989.

The Office of the Actuary has also estimated the impact of the bill over a 75-year period. Under II-B economic and demographic assumptions, the OASDI system is in actuarial balance. Outgo is nearly the same as income measured as a percent of taxable payroll. (The estimates of the Office of the Actuary can be found in section IV of this Report.)

In compliance with clause 2(l)(3)(C) of rule XI, your Committee states that the Congressional Budget Office has examined H.R. 1900, as reported by the Committee and has submitted the following statements.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., March 4, 1983.

Hon. DANIEL ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 1900, the Social Security Act Amendments of 1983, as ordered reported by the House Committee on Ways and Means on March 2, 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 1900.
2. Bill title: Social Security Act Amendments of 1983.
3. Bill status: As ordered reported by the House Committee on Ways and Means on March 2, 1983.
4. Bill purpose: To amend the Social Security Act to assure the solvency of the Social Security trust funds; to accelerate presently scheduled payroll tax increases; to tax 50 percent of certain individuals' benefits; to increase the self-employed tax; to delay the payment of cost-of-living adjustments; to reform the Medicare reimbursement of hospitals; to extend the federal supplemental compensation program; and for other purposes.

5. Cost estimate: The following table shows the estimated costs of this bill to the federal government.

TABLE 1.—ESTIMATED BUDGET AUTHORITY, OUTLAY, AND REVENUE IMPACTS OF H.R. 1900 THE SOCIAL SECURITY ACT AMENDMENTS OF 1983 [1]

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987	1988
Function 550:						
BA	3,438	1,003	1,996	2,308	2,707	3,049
O	106	48	−153	−326	−405	−440
Function 600:						
BA	23,135	12,384	14,442	14,301	16,514	30,218
O	646	−3,181	−3,534	−3,741	−3,969	−4,442
Function 700:						
BA	0	−89	−58	−58	−60	−63
O	−25	−54	−58	−58	−60	−63
Total:						
BA	26,573	13,298	16,380	16,551	19,162	33,204
O	727	−3,187	−3,745	−4,125	−4,434	−4,945
Total Revenues	0	5,153	8,131	7,960	9,219	20,022
Change in unified budget deficit	727	−8,340	−11,876	−12,085	−13,653	−24,967

[1] A provision in H.R. 1900 mandates a separate budget function (650) for OASI, DI, HI and SMI. The distribution by function shown here does not include this change.

The costs from this bill fall within budget functions 550, 600 and 700. The budget authority is the net result of higher interest income on higher trust fund balances for the Old Age Survivors Insurance (OASI), the disability Insurance (DI) and Hospital Insurance (HI) programs, transfers to the trust funds from the general fund of the U.S. Treasury, and required additional budget authority for the Supplemental Security Income (SSI), Supplementary Medical Insurance (SMI), Food Stamps, Veteran's Pensions and Medicaid programs.

Basis of estimate: This bill generally incorporates the January, 1983 recommendations of the National Commission on Social Security Reform. It also incorporates provisions affecting the Medicare, Supplemental Security Income and Unemployment Insurance Programs. Table 2, shows the costs, savings and revenue impacts of this bill to the federal government.

One major purpose of this bill is to ensure the continued payment of all Social Security benefits. The impact of some of the provisions in the bill on the financial status of the Social Security trust funds differs from their impact on the federal budget. Many provisions transfer funds within the government, which has no impact on budget outlays or receipts. In addition, the savings to and income into the trust funds generate additional interest income or budget authority. This income also does not affect the unified budget deficit. The impact of the bill on the trust funds is therefore shown separately in Table 3.

TABLE 2.—ESTIMATED OUTLAY AND REVENUE CHANGES TO THE UNIFIED FEDERAL BUDGET RESULTING FROM H.R. 1900, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987	1988
Outlay Changes						
Delay COLA 6 months (sec. 111):						
OASDI	−1,704	−3,793	−4,228	−4,473	−4,706	−5,181
SSI	−100	−130	−170	−170	−175	−210
Veterans' pensions	−25	−54	−58	−58	−60	−63
Offsets: food stamps	0	37	46	51	53	53
Raise disabled widow(er) benefits to 71.5 percent of PIA (sec. 134): OASDI	0	90	125	130	135	140
Medicare premium delay (sec. 340):						
SMI	114	63	−90	−201	−206	−211
HI	1	(1)	(1)	(1)	(1)	(1)
Offset medicaid	−9	−5	7	15	16	16
Increase SSI benefits (sec. 401):						
SSI	250	750	845	840	875	935
Offsets:						
Food stamps	−40	−165	−170	−170	−175	−175
Medicaid	0	35	50	55	55	55
Extend FSC program for 6 months (sec. 501):						
Unemployment Compensation	2,380	0	0	0	0	0
Offsets to food stamps and AFDC	−155	0	0	0	0	0
Prospective payment system (sec. 601)	0	0	0	(2)	(2)	(2)
State waiver change (sec. 603)	0	(3)	(3)	(3)	(3)	(3)
Eliminate return on equity capital (sec. 601) HI		−45	−120	−195	−270	−300
Miscellaneous outlay impacts:						
OASDI	13	25	15	48	21	−7
SSI and AFDC	2	5	3	3	3	3
Total outlay effect	727	−3,187	−3,745	−4,125	−4,434	−4,945
Revenue changes						
FICA increase (sec. 123):						
OASDI	0	6,361	2,349	0	0	10,272
Railroad retirement	0	45	0	0	0	61
1984 FICA tax credit	0	−3,240	−985	0	0	0
Other FICA tax offsets	0	−795	−147	0	0	−1,284
SECA tax increase (sec. 124)	0	1,408	4,304	4,382	4,747	5,179
SECA tax deduction	0	−636	−1,911	−1,862	−1,989	−2,059
Cover nonprofit employees (sec. 102)	0	1,118	1,697	1,955	2,297	2,853
Nonprofit worker's income tax offsets	0	−141	−212	−244	−287	−357
Cover new Federal workers (sec. 101)	0	71	197	327	468	650
Tax 50 percent of benefits (sec. 121):						
OASDI	0	780	2,769	3,316	3,885	4,594
Railroad retirement	0	20	64	74	85	98
Increased tax revenues from FSC extension (sec. 501)	0	155	0	0	0	0
Miscellaneous	0	7	6	12	13	15
Total revenue effect	0	5,153	8,131	7,960	9,219	20,022
Total impact on unified budget deficit	727	−8,340	−11,876	−12,085	−13,653	−24,967

[1] Less than $0.5 million.

[2] The budgetary impact cannot be estimated because the bill would allow the Secretary of Health and Human Services, as advised by a panel of experts, nearly unlimited discretion in setting payment rates for inpatient hospital services. Those rates could be set such that aggregate Medicare outlays would increase or decrease.

[3] The cost of this provision cannot be estimated because it depends on the actions of state hospital rate-setting commissions in Massachusetts and New York.

Source: CBO estimates based on January, 1983 economic assumptions.

A section by section description for the basis of the estimates for the provisions in this bill having major cost impact is given below.

TITLE I—PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

COVER NEW FEDERAL EMPLOYEES (SECTION 101)

This provision extends Social Security coverage to all new permanent federal civilian employees (including all new hires with a year or more separation from the federal government) as of January 1, 1984. The proposal is expected to cover about 150,000 new permanent federal entrants per year through 1988. The provision also covers all elected officials and political appointees in the judicial, legislative and executive branches. The proposal raises $71 million in unified budget fiscal year 1984 and $1.7 billion in revenues from fiscal year 1984 through 1988.

This provision assumes no change in the current Civil Service Retirement system for those federal workers newly covered by Social Security. It does, however, stipulate the intent that a supplementary plan be developed under the Civil Service system for these workers. No impact of any Civil Service change is given in this estimate.

The estimate is based on CBO's current economic and federal employment assumptions.

COVER WORKERS ON NON-PROFIT ORGANIZATIONS (SECTION 102)

The provision requires mandatory coverage of all employees of non-profit institutions and organizations. Approximately 20 percent of employees of non-profit organizations and institutions are not currently covered by Social Security. Covering the last 20 percent of non-profit employees raises $1 billion in fiscal year 1984 and $8.7 billion in fiscal years 1984 through 1988.

The provision also provides that non-profit employees aged 55 and over would be deemed fully insured for coverage after working a smaller number of quarters in covered employment than would otherwise be needed. This clause applies to those turning age 62 (the first year of retirement eligibility) no sooner than January 1, 1986. Since those covered workers in this group would have to have previous employment in order to receive a significant benefit, it is not expected that this clause would have a cost impact in the 1983 to 1988 period.

The extension of mandatory coverage to all non-profit employees results in an income tax offset against the increase in OASDHI revenues. The offset equals 25 percent of the employer contribution and reduces income tax revenues. Income tax revenues are estimated to fall because it is assumed that non-profit employers pass the entire payroll tax increase onto their employees in the form of lower wages and salaries.

The estimate was based on CBO's economic assumptions using the Social Security Administration's short-term revenue forecasting model.

TABLE 3. ESTIMATED CHANGES IN OASI, DI AND HI TRUST FUND OUTLAYS AND INCOME RESULTING FROM H.R. 1900, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983 [1]

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987	1988
Trust fund outlay changes:						
6-month COLA delay:						
OASI	−1,519	−3,394	−3,805	−4,049	−4,272	−4,712
DI	−185	−399	−423	−424	−434	−469
Revised disabled widow(er) benefits to 71.5 percent of PIA, OASI		90	125	130	135	140
Miscellaneous provisions:						
OASI	12	21	11	44	17	−11
DI	1	4	4	4	4	4
HI	0	−45	−120	−195	−270	−300
Total outlay changes:						
OASI	−1,507	−3,282	−3,669	−3,875	−4,120	−4,583
DI	−184	−395	−419	−420	−430	−465
HI	0	−45	−120	−195	−270	−300
Total	−1,691	−3,723	−4,208	−4,490	−4,820	−5,348
Trust fund income changes:						
Tax 50 percent of benefits OASI [2]	0	780	2,769	3,316	3,885	4,594
FICA tax speedup:						
OASI	0	5,476	1,974	0	0	8,631
DI	0	966	403	0	0	1,764
SECA tax increase:						
OASI	0	856	2,525	2,447	2,608	2,912
DI	0	175	517	501	534	597
HI	0	377	1,262	1,434	1,605	1,670
Cover newly hired Federal workers:						
OASI	0	120	333	556	795	1,103
DI	0	20	60	98	140	196
Cover nonprofit organizations:						
OASI	0	712	1,083	1,226	1,427	1,763
DI	0	189	288	332	390	485
HI	0	216	326	397	480	605
Military transfer credits:						
OASI	16,800	−380	−385	−210	−220	−210
DI	2,300	−60	−60	−35	−35	−35
HI	3,290	−70	−70	−60	−60	−60
Uncashed checks:						
OASI	0	1,180	43	43	43	43
DI	0	220	7	7	7	7
Miscellaneous OASDHI	−1	7	6	12	13	14
Total income changes:						
OASDI	20,500	8,914	9,563	8,293	9,587	21,864
HI	3,289	523	1,518	1,771	2,025	2,215
Total 23,789	9,437	11,081	10,064	11,612	24,079	
Total outlay and income infusions to trust funds:						
OASDI	22,191	12,592	13,651	12,588	14,137	26,912
OASDHI	25,479	13,160	15,289	14,554	16,432	29,427
Estimated interest income:						
OASDI	298	2,928	4,325	5,454	6,346	7,687
OASDHI	342	3,315	4,836	6,122	7,164	8,661
Total annual increase in trust funds:						
OASDI	22,489	15,520	17,976	18,042	20,483	34,599
OASDHI	25,821	16,475	20,125	20,676	23,596	38,088

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[1] Assumes no reallocation between OASI and DI trust funds.

[2] Assumes all revenues allocated to OASI trust fund.

Source: CBO estimates based on January 1983 economic assumptions.

TERMINATION OF STATE AND LOCAL COVERAGE (SECTION 103)

Currently, state and local governments can terminate Social Security coverage upon giving two years notice of their intention to withdraw, and then doing so. This provision would prohibit any such withdrawals, effective with the bill's enactment.

CBO's current law revenue estimates do not assume reductions in trust fund income that could result from withdrawals of certain state and local governments. Thus, there would be no revenue gain to the CBO baseline estimates from prohbiting such withdrawals.

DELAY PAYMENT OF ANNUAL COST-OF-LIVING ADJUSTMENT FROM JULY TO JANUARY OF EACH YEAR (SECTION 111)

This section delays the payment of future cost-of-living adjustments (COLA's) for Social Security for six-months, from July to January of each year. In addition, the provision changes the base period from which the COLA is calculated.

The COLA is measured by the growth in the Consumer Price Index (CPI) from the first calendar quarter of the previous year to the first quarter of the current year. Whenever the increase is greater than three percent, an adjustment to the benefits paid each July is made. The July, 1983 COLA will be paid in January, 1984 under this provision, and will be based on the current law indexing period. Subsequent adjustments will be based on the CPI growth from the third quarter of one year to the next. The table below shows the CBO COLA assumptions under current law and under this provision.

Assumed Percentage Increase in Social Security Benefits Under Current Law Under H.R. 1900:

	1983	1984	1985	1986	1987	1988
Current Law (July)	4.1	4.6	4.5	4.2	4.0	3.8
Proposed (January)	0.0	4.1	4.6	4.4	4.1	3.8

This bill also guarantees that a January, 1984 COLA will be given, even if the rate of inflation is so low that the adjustment is less than three percent.

Since CBO's current economic assumptions have this COLA adjustment at 4.1 percent in 1984, this clause has no cost effect. The change in the COLA base and date of payment is expected to save $24 billion in Social Security benefits over the period, and an additional $1 billion in SSI and other benefits directly linked to this COLA. In addition, conforming changes in the food stamp program would cost an additional $240 million over the period.

TAXATION OF 50 PERCENT OF SOCIAL SECURITY AND RAILROAD RETIREMENT BENEFITS FOR INDIVIDUALS WITH INCOMES ABOVE $25,000 AND MARRIED COUPLES ABOVE $32,000 (SECTION 121)

This provision includes in taxpayers' adjusted gross income (AGI) half of Old Age, Survivors and Disability Insurance (OASDI) benefits when those benefits plus AGI exceeds a threshold amount. The threshold is $25,000 for single returns, $32,000 for joint returns, and zero for married couples filing separately. The amount of benefits included in AGI would be the lesser of either 50 percent of benefits or the one-half of the balance of the taxpayers' summed income over the threshold.

The provision raises $800 million in fiscal year 1984 and $15.3 billion from fiscal year 1984 through 1988. The revenue effects are derived from the Joint Committee on Taxation estimates based on the Social Security Trustees' II-B assumptions, with benefit amounts lowered to take account of the CBO's lower inflation (and therefore cost-of-living adjustment) projections.

INCREASE SOCIAL SECURITY PAYROLL TAX (FICA) AND 1984 TAX CREDIT (SECTION 123)

The provision accelerates the OASDI payroll tax (FICA) increases for employees and employers. The payroll tax increases to 5.7 percent from 5.4 percent on January 1, 1984 instead of January 1, 1985. Another tax rate speedup increases the rate to 6.06 percent from 5.7 percent on January 1, 1988 and January 1, 1989. This increase was scheduled to take effect in 1990. The proposal also includes a payroll tax credit of 0.3 percent of employee FICA contribution for 1984.

The FICA tax acceleration results in an income tax offset equal to 25 percent of the employer payroll tax contribution. The offset lowers income tax receipts because employers are asssumed to pass back onto employees the full payroll tax increase in the form of lower wages and salaries.

The provision is estimated to raise OASDI unified budget revenues $6.4 billion in fiscal year 1984 and $19.0 billion from fiscal year 1984 through fiscal year 1988. The income tax offset equals $2.2 billion from fiscal years 1984 through 1988. The revenue loss due to the payroll tax credit results in a $4.2 billion loss by fiscal year 1985.

The estimates are based upon CBO's latest economic assumptions using the Social Security Administration's short-term revenue forecasting model.

INCREASE SELF-EMPLOYED TAX RATE (SECTION 124)

The provision raises the self-employed payroll tax rate (SECA) to a level equal to the combined employer-employee conbtibution rate (including the FICA tax acceleration). In 1984 the SECA OASDI rate increases 3.35 percent and the HI rate increases 1.3 percent for a SECA rate of 14 percent. Further, the provision includes an income tax credit equal to 2.1 percent to total SECA contributions in 1984 and 1.8 percent in 1985 and thereafter.

The proposal raises $1,408 million in SECA revenues in fiscal year 1984 and $20 billion from fiscal years 1984 through 1988. The income tax loss due to the self-employed income tax credit equals $636 million in fiscal year 1984 and $8.5 billion from fiscal year 1984 through fiscal year 1988.

REALLOCATION OF OASI AND DI TAX RATES (SECTION 125)

This provision has no net cost to the federal government. It realigns the payroll tax portions allocated to the OASI and DI trust funds so as to keep the two funds' balances at approximately the same percentage of outlays at the start of each year.

BENEFITS TO CERTAIN WIDOWS, DIVORCED AND DISABLED WOMEN (SECTIONS 131, 132, 133, 134)

These provisions would: (1) allow the continuation of benefits to surviving, divorced or disabled spouses who remarry; (2) change the indexing procedure for benefits for those receiving deferred survivors benefits; (3) allow divorced spouses to draw benefits regardless of whether the former spoyse is receiving benefits; and (4) increase benefits for disabled widows and widowers.

Together, these provisions would cost less than $200 million per year once fully effective in fiscal year 1985. The largest cost in this group of provisions would allow disabled widows or widowers ages 50 to 59 to receive benefits at an amount equal to which non-disabled widows or widowers over age 59 currently receive. This provision is estimated to cost $90 million in fiscal year 1984, $125 million in 1985 and an estimated $600 million over the five year period. Based on Social Security Administration data, approximately 200,000 recipients would receive $50 or 20 percent in added benefits per month under this provision.

REIMBURSEMENT TO OASDHI TRUST FUNDS FOR MILITARY WAGE CREDITS AND UNEARNED OASDI CHECKS (SECTIONS 151 AND 152)

These provisions will credit the three Social Security trust funds with $23.8 billion as part of a transfer in 1983 from the general fund of the Treasury. A total of $22.4 billion of this transfer represents the present value of estimated benefits arising from Social Security credits granted to military personnel for service prior to 1957, and the amount of taxes on these credits between 1956 and 1983. the remaining transfer is for the estimated amounts of uncashed Social Security checks for past years, including an estimated $600 million in interest payments for these outstanding checks. Checks uncashed for longer than six months will also be credited back to the trust funds in future years.

These estimates were provided by the Social Security Administration. Although they add large amounts to the trust funds, the provisions do not have any cost impact to the federal government as a whole. There are offsetting interfund transfers within the federal unified budget.

TITLE II—LONG-TERM FINANCING (SECTIONS 201 AND 202)

This section of the bill reduces initial benefit levels beginning in the year 2000 and raises the tax rates beginning in 2015. There are no effects resulting from these provisions in the 1983 to 1988 period.

TITLE III—MISCELLANEOUS AND TECHNICAL PROVISIONS (SECTIONS 301-339)

The provisions in this section of the bill are mostly technical in nature, relating to changes to eliminate certain gender based distinctions in the law to reflect recent court decisions, or to adjust certain accounting mechanisms. Most have negligible revenue or outlays impacts.

Among the accounting provisions is one to alter trust fund investment procedures (Section 303). A new short-term interest rate was defined, and the trust funds are to receive returns on investments equalling the higher of the short-term or long-term rates. CBO is not currently projecting short-term rates to exceed long-term rates over the five-year period, and thus, there is no estimated trust fund impact from this provision. Since interest payments are an intergovernmental transfer, there would not be cost implications to the budget from this provision.

A provision (Section 335) to allow an aged widow or widower to receive a reduced benefit for the month in which a spouse died (instead of receiving the first benefit in the month after the spouse died) is estimated by the Social Security Administration to cost $15 million per year. This provision only affects those widows who would receive an actuarily reduced benefit as the result of taking such a payment.

Also in this section of the bill is a provision (Section 338) to reduce the amoung of public pensions used for purposes of the offset against Social Security benefits from 100 percent to 33 percent for those becoming eligible for public pensions after June, 1983. The provision will cost an estimated $100 million over the period.

TITLE IV—SUPPLEMENTAL SECURITY INCOME PROVISIONS

This title of the bill raises SSI benefits and makes other minor changes in SSI and AFDC. Together these changes are estimated to add $728 million to federal outlays in fiscal year 1985.

Beginning July 1, 1983, SSI benefits would be increased by $20 a month for individuals living in their own household and by $30 a month for couples. These increased benefits would more than offset the effect on SSI receipients of the COLA delay. The largest part of the added cost comes from the benefit increase for current SSI beneficiaries. In addition, CBO estimates that about 125,000 persons would become new beneficiaries of SSI. Most would be newly eligible for SSI as a result of the increased income limits. For these persons, CBO has assumed a participation rate of 25 percent (that is, of all the newly eligible, 25 percent would actually participate in SSI). Some of the other new beneficiaries would be persons previously eligible who would now choose to participate as a result of the increased benefit levels. There are also an estimated 65,000 persons who were receiving SSI state supplements only who would now become eligible for a small federal SSI payment.

Partially offsetting the costs in SSI from these benefit increases is a savings in the food stamp program as incomes of SSI beneficiaries rise. There are also added costs in Medicaid for those new SSI beneficiaries who also become newly eligible for Medicaid.

Title IV would also enable temporary residents of emergency public shelters to receive SSI for three months in any twelve-month period. This provision is estimated to cost $1 million in fiscal year 1983 and $3 million a year thereafter. In addition, Title IV would disregard in the determination of benefits any in-kind assistance based on need received by SSI and AFDC beneficiaries. This provision, which is effective only through September 30, 1984, is estimated to cost less than $500,000 a year in SSI and $1 million in 1983 and $2 million in 1984 in AFDC.

TITLE V—UNEMPLOYMENT COMPENSATION PROVISIONS

This section of the bill would extend for six months the federal supplemental compensation program (FSC) now scheduled to terminate March 31, 1983. It would provide up to 14 weeks of additional unemployment compensation benefits for individuals exhausting extended unemployment benefits after March 31, the maximum number of weeks provided varying with a state's insured unemployment rate (IUR). In addition, it would provide those persons who have exhausted their FSC entitlement before March 31 with up to 10 additional weeks of benefits, the maximum number of weeks again varying with a state's IUR.

The estimate of the fiscal impact of this section of the bill is based upon estimates of the states' IURs and weeks compensated, and the determination of whether a state will be paying extended benefits which underlies the CBO baseline. It is assumed that the national seasonally adjusted IUR will be 4.4 percent for both quarters of the extension. Furthermore, it is assumed that 45 percent of those claimants in the current law FSC program would exhaust and collect added weeks of benefits during the extension. This point estimate is based upon the experience of exhaustees of the federal supplemental benefits program of 1975 to 1978.

CBO estimates that any FSC extension results in a reduction in AFDC and Food Stamp outlays as individuals who exhaust unemployment benefits and would otherwise draw benefits from these means-tested programs continue to draw jobless payments. It is estimated that the extension through September 1983 will cause AFDC and food stamp expenditures to drop by $155 million. In addition, CBO estimates that the six-month FSC extension will cause income tax revenues to increase in fiscal year 1984 by $155 million.

TITLE VI—MEDICARE HOSPITAL INSURANCE PROVISIONS

SECTION 340: CONFORMING CHANGES IN MEDICARE PREMIUMS

The bill would postpone from July 1 to January 1 of the following year increases in Medicare premiums. Current premium amounts would apply during the interim. Future premiums (and the general revenue contribution to SMI) would be calculated on the basis of estimated incurred costs for the calendar year during which the premium would apply. Consonant with the changes made by TEFRA a year ago, SMI premiums would be set at 25 percent of cost per aged enrollee in calendar year 1984 and 1985, but would be limited in subsequent years by the cost-of-living increase in social security benfits in the previous January.

The estimated costs of this provision are the difference between projections of income from premiums under current law and under the amendment. Premium income under the amendment is the product of monthly enrollment projections and monthly premium amounts computed on the basis of projected incurred costs by calendar year.

General.—The bill would provide for reimbursing most hospitals for inpatient services provided to Medicare enrollees on the basis of payment amounts, varying by diagnosis, fixed in advance of the period in which they would apply. The provision would be effective with hospital cost-reporting periods beginning on or after October 1, 1983. With the exceptions discussed below, for the first two cost-reporting periods affected, the payment rates would be set to assure that total Medicare payments for inpatient hospital services in affected hospitals would be neither greater nor less than under current law. If implemented faithfully, the provision would have no budgetary impact in fiscal years 1984 and 1985. In subsequent fiscal years, however, the Secretary of Health and Human Services, advised by a panel of experts, would have nearly unlimited discretion in setting payment rates. Given that discretion, CBO in unable to determine whether the prospective payment provision would result in federal costs or savings after fiscal year 1985.

This estimate is based on assurances from Committee staff that report language will indicate the Committee's intention to include all adjustments under subsection (d)(5) of section 1886 as amended by the bill within the scope of the budget neutrality adjustments required under subsection (e)(1). Committee staff has assured CBO that the ommission from the language of the reported bill is a technical error to be corrected at a later date.

Change in State Waiver Requirement.—The bill would eliminate the requirement that the rate of increase in Medicare hospital costs in states currently reimbursing hospitals under demonstration agreements entered into after August 1982 be less than the national rate of increase in those costs. The provision would affect only Massachusetts and New York, both of which operate hospital rate-setting programs that have for several years held their hospital cost increases well below the national average. If those states were to continue to be as successful as they have been, the provision would have no budgetary impact. On the other hand, the provision would allow larger cost increases than current law. If Medicare hospital costs were to rise one percentage point faster under the provision, federal spending would increase by about $50 million in 1984.

6. Estimated cost to State and local Governments.—A number of the provisions of this bill would affect budgets of state and local governments. Their estimated net impact on categories of state and local expenditures is shown in the table below.

TABLE 4. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS

	1983	1984	1985	1986	1987	1988
Payroll costs		291	159			446
SSI State supplements	35	120	130	125	125	130
Medicaid	−8	26	49	60	60	60

TABLE 4. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS—Continued

	1983	1984	1985	1986	1987	1988
AFCD	−29	1				
General assistance	−13					
Total	−15	438	338	185	185	636

Basis of estimate.—The acceleration of FICA rate increases would add to state and local government payroll costs. Currently, about 70 percent of total state and local government employment is covered by Social Security. State and local governments would have added payroll tax contributions of $291 million in fiscal year 1984 and $896 million over the entire 1984-88 period. The CBO estimate does not include a future cost to states who would no longer be able to withdraw from the Social Security system under this legislation.

The changes in SSI would increase state and local government costs. Virtually all states supplement federal SSI benefits. The $20 benefit increase would raise state costs unless states were to lower their state supplement benefit levels. Typically, lowering of benefit levels requires action by state legislatures. The CBO cost estimate assumes that current state supplement levels remain in effect. Consequently, it represents a maximum cost to state and local governments.

The CBO cost esimate for the $20 benefit increase incorporates added costs to states and localities for current state supplement only beneficiaries, for new state supplement beneficiaries as a result of the new federal beneficiaries (about one-third of federal SSI beneficiaries receive state supplements), and for new state supplement only beneficiaries who are newly eligible. Costs of this provision are estimated to total $130 million in fiscal year 1985.

In addition to the effect of the $20 benefit increase, SSI state supplement costs would be increased by the COLA delays in SSI and OASDI. When COLAs are made, state supplement costs decline slightly because for state supplement only beneficiaries OASDI increases are larger than SSI increases. The costs of the COLA delays are estimated to total about $6 million a year.

The CBO cost estimate does not include any cost effect of the more stringent "pass-through" requirements of section 402. Current law requires states to pass through to SSI beneficiaries federal benefit increases unless state payment levels are above their December 1976 levels or unless aggregate state SSI supplement expenditures in the 12 months following a federal payment level increase exceed aggregate state expenditures in the 12 months prior to the federal change. This provision would require states to pass through the dollar amount of the COLA that would have occurred in July 1983 under current law and also all future federal benefit increases, even if state payment levels are above the December 1976 levels. Hence, the provision would limit the flexibility of states to reduce supplement levels when federal SSI benefits increase. A state could, however, continue to comply with federal pass-through law by meeting the expenditure requirement if it fails to pass through federal increases.

Expenditures of state and local governments would also rise because of higher Medicaid costs occasioned by the SSI benefit increase and the Medicare premium delay discussed earlier. The state and local government financing share of Medicaid averages about 46 percent.

The increased federal supplemental compensation benefit for the unemployed would lower state and local government expenditures in two ways. First, AFDC outlays would decline in fiscal year 1983. The state share of such outlays averages 46 percent. Second, outlays for state and local general assistance (GA) programs would also decline. GA programs are fully funded by state and local governments and are means-tested, typically serving those ineligible for AFDC and SSI. There are no reliable statistics on which to base an estimate of savings in GA. However, a rough estimate of the estimated effect in Michigan provided by Michigan analysts was used to estimate national effects. Michigan accounts for about 15 percent of GA expenditures.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Stephen Chaikind, Malcolm Curtis, Richard Hendrix, John Navratil, Janice Peskin, Roger Hitchner, Kathleen Shepherd, James Nason.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND

SECTION 201. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund". The Federal Old-Age and Survivors Insurance Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, and, in addition, such gifts and bequests as may be made as provided in subsection (i)(1), and such amounts as may be appropriated to, or deposited in, the Federal Old-Age and Survivors Insurance Trust Fund as hereinafter provided. There is hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of the Internal Revenue Code of 1939 (and covered into the Treasury) which are deposited into the Treasury by collectors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of such Code which are deposited into the Treasury by collectors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of such Code with respect to wages (as defined in section 1426 of such Code), and by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of such Code) reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 after December 31, 1950, or to the Secretary of the Treasury or his delegates pursuant to subtitle F of the Internal Revenue Code of 1954 after December 31, 1954, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 (other than sections 3101(b) and 3111(b)) to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports, less the amounts specified in clause (1) of subsection (b) of this section; and

(4) the taxes imposed by subchapter E of chapter 1 of the Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of such Code), and by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1954 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter (other than section 1401(b)) to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns, less the amounts specified in clause (2) of subsection (b) of this section.

The amounts appropriated by clauses (3) and (4) shall be transferred [from time to time] *monthly on the first day of each calendar month* from the general fund in the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred [from time to time] *monthly on the first day of each calendar month* from the general fund in the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of this subsection, [paid to or deposited into the Treasury] *to be paid to or deposited into the Treasury during such month*; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection. *All amounts transferred to either Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of such Trust Fund; and such Trust Fund shall pay interest to the general fund on the amount so transferred* *on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of such Fund in the same month under subsection (d).*

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i)(1), and such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)(A) ½ of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, (C) 0.095 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, **[**(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported**]** *(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1983, and so reported, (L) 1.25 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1984, and so reported, (M) 1.00 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1990, and so reported, and (N) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,* which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2)(A) ⅜ of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) 0.525 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1965, and before Janaury 1, 1968, (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.0400 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, [(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985, (L) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989] *(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1983, (L) 0.9375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1984, (M) 1.00 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1990, and (N) 1.20 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,* which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of *self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.*

(c) With respect to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (hereinafter in this title called the "Trust Funds") there is hereby created a body to be known as the Board of Trustees of the Trust Funds (hereinafter in this title called the "Board of Trustees") which Board of Trustees shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this title called the "Managing Trustee"). The Commissioner of Social Security shall serve as Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Funds;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years;

(3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small;

(4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the old-age and survivors insurance and Federal-State unemployment compensation program; and

(5) Review the general policies followed in managing the Trust Funds, and recommend changes in such policies, including necessary changes in the provisions of the law which govern the way in which the Trust Funds are to be managed.

The report provided for in paragraph (2) above shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. **[**Such report shall also include**]** *Such report shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost-estimates used are reasonable, and shall also include* an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. **[**Such investments may be made only in interest/bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price.] *Such investments may be made only in interest-bearing public-debt obligations of the United States which are issued exclusively for purchase by the Trust Funds under title 31 of the United States Code.* The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligation for purchase by the Trust Funds. [Such obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States than forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.] *Such obligations shall be redeemable at par plus accrued interest at any time, and shall bear interest in any month (including the month of issue) at a rate equivalent to either (1) the average market yield (determined by the Managing Trustee on the basis of market quotations as of the end of each business day of the preceding month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt (other than "flower bonds") which are not due or callable until after the expiration of 4 years from the end of such preceding month, or (2) the average market yield (so determined) on all such obligations which are due or callable 4 years or less from the end of such preceding month, whichever average market yield (with respect to the month involved) is larger; except that where such equivalent interest rate is not a multiple of one-eighth of 1 percent, the rate of interest on the obligations involved shall be the multiple of one-eighth of 1 percent nearest such equivalent rate. For purposes of the preceding sentence, the term "flower bond" means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representative of the estate of a deceased individual, be redeemed in advance of maturity and at par (face) value plus accrued interest to the date of payment if (i) it was owned by such deceased individual at the time of his death, (ii) it is part of the estate of such deceased individual, and (iii) such representative authorizes the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.*

[(e) Any obligations acquired by the Trust Funds (except public-debt obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.]

* * * * * * *

"(l)(1) If at any time prior to [January 1983] *January 1, 1988,* the Managing Trustee determines that borrowing authorized under this subsection is appropriate in order to best meet the need for financing the benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee may borrow such amounts as he determines to be appropriate from the other such Trust Fund, or from the Federal Hospital Insurance Trust Fund established under section 1817, for transfer to and deposit in the Trust Fund whose need for financing is involved.

(2) In any case where a loan has been made to a Trust Fund under paragraph (1), there shall be transferred from time to time, from the borrowing Trust Fund to the lending Trust Fund, interest with respect to the unrepaid balance of such loan at a rate equal to the rate which the lending Trust Fund would earn on the amount involved if the loan were an investment under subsection (d).

(3) If in any month after a loan has been made to a Trust Fund under paragraph (1), the Managing Trustee determines that the assets of such Trust Fund are sufficient to permit repayment of all or part of any loans made to such Fund under paragraph (1), he shall make such repayments as he determines to be appropriate*; but the full amount of all such loans (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.*

(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (including interest payments) under this subsection.

(n)(1) The Secretary of the Treasury shall implement procedures to permit the identification of each check issued for benefits under this title that has not been presented for payment by the close of the sixth month following the month of its issuance.

(2) The Secretary of the Treasury shall, on a monthly basis, credit each of the Trust Funds for the amount of all benefit checks (including interest there on) drawn on such Trust Fund more than 6 months previously but not presented for payment and not previously credited to such Trust Fund.

(3) If a benefit check is presented for payment to the Treasury and the amount thereof has been previously credited pursuant to paragraph (2) to one of the Trust Funds, the Secretary of the Treasury shall nevertheless pay such check, if otherwise proper, recharge such Trust Fund, and notify the Secretary of Health and Human Services.

(4) A benefit check bearing a current date may be issued to an individual who did not negotiate the original benefit check and who surrenders such check for cancellation if the Secretary of the Treasury determines it is necessary to effect proper payment of benefits.

OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

OLD-AGE INSURANCE BENEFITS

SEC. 202. (a) Every individual who—

(1) is a fully insured individual (as defined in section 214(a)),
(2) has attained age 62, and

(3) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65,

shall be entitled to an old-age insurance benefit for each month, beginning with—

(A) in the case of an individual who has attained age 65, the first month in which such individual meets the criteria specified in paragraphs (1), (2), and (3), or

(B) in the case of an individual who has attained age 62, but has not attained age 65, the first month throughout which such individual meets the criteria specified in paragraphs (1) and (2) (if in that month he meets the criterion specified in paragraph (3)),

and ending with the month preceding the month in which he dies.

WIFE'S INSURANCE BENEFITS

(b)(1) The wife (as defined in section 216(b)) and every divorced wife (as defined in section 216(d)) of an individual entitled to old-age or disability insurance benefits, if such wife or such divorced wife—

(A) has filed application for wife's insurance benefits,

(B) has attained age 62 or (in the case of a wife) has in her care (individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual,

(C) in the case of a divorced wife, is not married, and

(D) is not entitled to old-age or disability insurance benefits or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection (s)) be entitled to a wife's insurance benefit for each month, beginning with—

(i) in the case of a wife or divorced wife (as so defined) of an individual entitled to old-age benefits, if such wife or divorced wife has attained age 65, the first month in which she meets the criteria specified in subparagraphs (A), (B), (C), and (D), or

(ii) in the case of a wife or divorced wife (as so defined) of—

(I) an individual entitled to old-age insurance benefits, if such wife or divorced wife has not attained age 65, or

(II) an individual entitled to disability insurance benefits,

the first month throughout which she is such a wife or divorced wife and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month she meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month in which any of the following occurs—

(E) she dies,

(F) such individual dies,

(G) in the case of a wife, they are divorced and either (i) she has not attained age 62, or l(ii) she has attained age 62 but has not been married to such individual for a period of 10 years immediately before the date the divorce became effective.

(H) in the case of a divorced wife, she marries a person other than such individual,

(I) in the case of a wife who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

(J) she becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) Except as provided in subsection (q) and paragraph (4) of this subsection, such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month.

(3) In the case of any divorced wife who marries—

(A) an individual entitled to benefits under subsection **[**(f)**]** *(c), (f), (g),* or (h) of this section, or

(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d),

such divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), not be terminated by reason of such marriage**[**; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death**]**.

(4)(A) The amount of a wife's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) **[**by an amount equal to the amount of any monthly periodic benefit**]** *by an amount equal to one-third of the amount of any monthly periodic benefit* payable to such wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 210 for purposes of this title. *The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.*

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced wife of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced wife—

(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a wife's insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months as determined (under regulations of the Secretary) in the manner otherwise provided for wife's insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced wife first meets the criteria for entitlement set forth in clauses (i) and (ii).

(B) A wife's insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (J) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.

HUSBAND'S INSURANCE BENEFITS

(c)(1) The husband (as defined in section 216(f) *and every divorced husband (as defined in section 216(d))* of an individual entitled to old-age or disability insurance benefits, if such husband *or such divorced husband*—

(A) has filed application for husband's insurance benefits,

(B) has attained age 62 [and] *or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child's insurance benefits on the basis of the wages and self-employment income of such individual,*

(C) in the case of a divorced husband, is not married, and

[(C)] *(D)* is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of [his wife,] *such individual,*

[shall be entitled to a husband's insurance benefit for each month, beginning with—

[(i) in the case of a husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband has attained age 65, the first month in which he meets the criteria specified in subparagraphs (A), (B), and (C), or

[(ii) in the case of a husband (as so defined) of—

[(I) an individual entitled to old-age insurance benefits, if such husband has not attained age 65, or

[(II) an individual entitled to disability benefits, [the first month throughout which he is such a husband and meets the criteria specified in subparagraphs (B) and (C) (if in such month he meets the criterion specified in subparagraph (A)),

[whichever is earlier, and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced, or he becomes entitled to an old-age or disability insurance benefit, based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.]

shall (subject to subsection(s)) be entitled to a husband's insurance benefit for each month, beginning with—

(i) in the case of a husband or divorced husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband or divorced husband has attained age 65, the first month in which he meets the criteria specified in subparagraphs (A), (B), (C), and (D), or

(ii) in the case of a husband or divorced husband (as so defined) of—

(I) an individual entitled to old-age insurance benefits, if such husband or divorced husband has not attained age 65, or

(II) an individual entitled to disability insurance benefits,

the first month throughout which he is such a husband or divorced husband and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month he meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month to which any of the following occurs:

(E) he dies,

(F) such individual dies,

(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 10 years immediately before the divorce became effective,

(H) in the case of a divorced husband, he marries a person other than such individual,

(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

(J) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2)(A) The amount of a husband's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) [by an amount equal to the amount of any monthly periodic benefit] *by an amount equal to one-third of the amount of any monthly period-*

ic benefit payable to such husband *(or divorced husband)* for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity, such service did not constitute "employment" as defined in section 210 for purposes of this title.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(3) Except as provided in subsection (q) and paragraph (2) of this subsection, such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife *(or, in the case of a divorced husband, his former wife)* for such month.

(4) In the case of any divorced husband who marries—

(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d), by reason of paragraph (1)(B)(ii) thereof,

such divorced husband's entitlement to benefits under this subsection, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), shall not be terminated by reason of such marriage.

(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced husband of an individual who is not entitled to oldage or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced husband—

(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a husband's insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months, as determined (under regulations of the secretary) in the manner otherwise provided for husband's insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced husband first meets the criteria for entitlement set forth in clauses (i) and (ii).

(B) A husband's insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (I) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.

CHILD'S INSURANCE BENEFITS

(d)(1) * * *

* * * * * * *

(5) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), *(c),* (e), (f), (g), or (h) of this section or under section 223(a), or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage[; except that, in the case of such a marriage to a male individual entitled to benefits under section 223(a) or this subsection, the proceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section].

* * * * * * *

WIDOW'S INSURANCE BENEFITS

(e)(1) The widow (as defined in section 216(c)) and every surviving divorced wife (as defined in section 216(d)) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

(A) is not married,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph [(5)] *(4),*

(C)(i) has filed application for widow's insurance benefits, or was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 65, and

(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount *(as determined after application of subparagraph (B) and (C) of paragraph (2))* of such deceased individual,

shall be entitled to a widow's insurance benefit for each month, beginning with—

(E) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

(F) if she satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph [(6)] *(5)* in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of begin under a disability and such first month occurs (I) in the period specified in paragraph [(5)] *(4)* and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount *(as determined after application of subparagraphs (B) and (C) of paragraph (2))* of such deceased individual, or, if she became entitled to such benefits before she attained age 60, subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; exept that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.

[(2)(A) Except as provided in subsection (q), paragraph (8) of this subsection, and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount (as determined after application of the following sentence) of such deceased individual. If such deceased individual]

(2)(A) Except as provided in subsection (q), paragraph (8) of this subsection, and subparagraph (D) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual's primary insurance amount—

(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B)(i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(ii)(I), and

(III) such primary insurance amont shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

(ii) The year specified in this clause is the earlier of—

(I) the year in which the deceased individual attained age 60, or would have attained age 60 had he lived to that age, or

(II) the second year preceding the year in which the widow or surviving divorced wife first meets the requirements of paragraph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

(C) If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section [215(f)(5) or (6)] *215(f)(5), 215(f)(6), or 215(f)(9)(B)* and under section 215(i) as if such individual were still alive in the case of an individual who has died) which he was receiving (or would upon application have received) for the month prior to the month in which he died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w) the number of increment months shall include any month in the months of the calendar year in which he died, prior to the month in which he died, which satisfy the conditions in paragraph (2) of such subsection (w).

[(B)] *(D)* If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitle to widow's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living and section [215(f)(5) or (6)] *215(f)(5), 215(f)(6), or 215(f)(9)(B)* were applied, where applicable, and

(ii) 82½ percent of the primary insurance amount *(as determined without regard to subparagraph (C))* of such deceased individual,

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

[(3) If a widow, before attaining age 60, or a surviving divorced wife, marries—

[(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

[(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.

[(4) If a widow, after attaining age 60, marries, such marriage shall for purposes of paragraph (1), be deemed not to have occurred.]

(3) For purposes of paragraph (1), if—

(A) a widow or surviving divorced wife marries after attaining age 60 (or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection), or

(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred.

[(5)] *(4) The period referred to in paragraph (1)(B)(ii), in the case of any widow or surviving divorced wife, is the period beginning with whichever of the following is the latest:*

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income her benefits are or would be based, or

(B) the last month for which she was entitled to mother's insurance benefits on the basis of the wages and self-employment income of such individual, or

(C) the month in which a previous entitlement to widow's insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased,

and ending with the month before the month in which she attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

[(6)] *(5)* The waiting period referred to in paragraph (1)(F), in the case of any widow or surviving divorced wife, is the earliest period of five consecutive calendar months—

(A) throughout which she has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which her application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph **[**(5)**]** *(4)* begins.

[(7)**]** *(6)* In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

[(8)**]** *(7)(A)* The amount of a widow's insurance benefit for each month as determined (after application of the provisions of subsections (q) and (k), paragraph (2)(B), and paragraph **[**(4)**]** *(3)* shall be reduced (but not below zero) **[**by an amount equal to the amount of any monthly periodic benefit**]** *by an amount equal to one-third of the amount of any monthly periodic benefit* payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 210 *for purposes of this title. The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.*

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

WIDOWER'S INSURANCE BENEFITS

(f)(1) The widower (as defined in section 216(g)) *and every surviving divorced husband (as defined in seciton 216(d))* of an individual who died a fully insured individual, if such widower *or such surviving divorced husband—*

(A) **[**has not remarried**]** *is not married,*

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph **[**(6)**]** *(5),*

(C)*(i)* has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, *or* *(ii) was entitled, on the basis of such wages and self-employment income, to father's insurance benefits for the month preceding the month in which he attained age 65, and*

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than the primary insurance amount *(as determined after application of subparagraphs (B) and (C) of paragraph (3))* of [his deceased wife] *such deceased individual,*

shall be entitled to a widower's insurance benefit for each month, beginning with—

(E) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

(F) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph [(7)] *(6)*) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph [(6)] *(5)* and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount *(as determined after application of subparagraphs (B) and (C) of paragraph (3))* of [his deceased wife] *such deceased individual,* or, if he became entitled to such benefits before he attained age 60, subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.

(2)(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (k) and (q), paragraph (3)(B), and paragraph [(5)] *(4)* shall be reduced (but not below zero) [by an amount equal to the amount of any monthly periodic benefit] *by an amount equal to one-third of the amount of any monthly periodic benefit* payable to such widower for such month which is based upon his earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity, such service did not constitute "employment" as defined in section 210 for purposes of this title. *The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.*

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a montly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

[(3)(A) Except as provided in subsection (q), paragraph (2) of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount (as determined after application of the following sentence) of his deceased wife. If such deceased individual.]

(3)(A) Except as provided in subsection (q), paragraph (2) of this subsection, and subparagraph (D) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual's primary insurance amount—

(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B)(i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(ii)(I), and

(III) such primary insurance amount shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

(ii) The year specified in this clause is the earlier of—

(I) the year in which the deceased individual attained age 60, or would have attained age 60 had she lived to that age, or

(II) the second year preceding the year in which the widower first meets the requirements of paragraph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection

which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

(C) If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section [215(f)(5) or (6)] *215(f)(5), 215(f)(6), or 215(f)(9)(B)* and under section 215(i) as if such individual were still alive in the case of an individual who has died) which she was receiving (or would upon application have received) for the month prior to the month in which she died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w)) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which she died, which satisfy the conditions in paragraph (2) of such subsection (w).

[(B)] *(D)* If the deceased [wife] *individual* (on the basis of whose wages and self-employment income a widower *or surviving divorced husband* is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widower's insurance benefit of such widower *or surviving divorced husband* for any month shall, if the amount of the widower's insurance benefit of such widower *or surviving divorced husband* (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased [wife] *individual* would have been entitled (after application of subsection (q)) for such month if such [wife] *individual* were still living and section [215(f)(5) or (6)] *215(f)(5), 215(f)(6), or 215(f)(9)(B)* were applied, where applicable; and

(ii) 82½ percent of the primary insurance amount *(as determined without regard to subparagraph (C))* of such deceased [wife] *individual;*

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

[(4) If a widower, before attaining age 60, remarries—

[(A) an individual entitled to benefits under subsection (b), (e), (g), or (h), or

[(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

[such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage.

[(5) If a widower, after attaining age 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred.]

(4) For purposes of paragraph (1), if—

(A) a widower or surviving divorced husband marries after attaining age 60 (or after attaining age 50 if he was entitled before such marriage occurred to benefits based on disability under this subsection), or

(B) a disabled widower or surviving divorced husband described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred.

[(6)**]***(5)* The period referred to in paragraph (1)(b)(ii), in the case of any widower *or surviving divorced husband,* is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based, **[**or**]**

(B) the last month for which he was entitled to father's insurance benefits on the basis of the wages and self-employment income of such individual, or

[(B)**]** *(C)* the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased,

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

[(7)**]** *(6)* The waiting period referred to in paragraph (1)(F), in the case of any widower *or surviving divorced husband,* is the earliest period of five consecutive calendar months—

(A) throughout which he has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which his application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph **[**(6)**]** *(5)* begins.

[(8)**]** *(7)* In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

MOTHER'S *AND FATHER'S* INSURANCE BENEFITS

(g)(1) The **[**widow**]** *surviving spouse* and every surviving divorced **[**mother**]** *parent* (as defined in section 216(d)) of an individual who died a fully or currently insured individual, if such **[**widow**]** *surviving spouse* or surviving divorced **[**mother**]** *parent—*

(A) is not married,

(B) is not entitled to a **[**widow's**]** *surviving spouse* insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to [wife's insurance benefits] *a spouse's insurance benefit* on the basis of the wages and self-employment income of such individual for the month preceding the month in which [he] *such individual* died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

(F) in the case of a surviving divorced [mother] *parent*—

(i) the child referred to in subparagraph (E) is *his or* her son, daughter, or legally adopted child, and

(ii) the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income,

shall (subject to subsection (s)) be entitled to a mother's *or father's* insurance benefit for each month, beginning with the first month [after August 1950] in which *he or* she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such [widow] *surviving spouse* or surviving divorced [mother] *parent* becomes entitled to an old-age insurance benfit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, *he or* she becomes entitled to a [widow's] *surviving spouse's* insurance benefit, *he or* she remarries, or *he or* she dies. Entitlement to such benefits shall also end, in the case of a surviving divorced [mother] *parent*, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced [mother] *parent* is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Except as provided in paragraph (4) of this subsection, such mother's *or father's* insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of a widow *surviving spouse* or surviving divorced [mother] *parent* who marries—

(A) an individual entitled to benefits under *this subsection or* subsection (a), *(b), (c), (e),* (f), or (h), or under section 223(a), or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

the entitlement of such [widow] *surviving spouse* or surviving divorced [mother] *parent* to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage[; except that, in the case of such a marriage to an individual entitled to benefits under section 223(a) or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or subsection (d) of this section unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section].

(4)(A) The amount of a mother's *or father's* insurance benefit for each month to which any individual is entitled under this subsection (as determined after application of subsection (k)) shall be reduced (but not below zero) [by an amount equal to the amount of any monthly periodic benefit] *by an amount equal to one-third of the amount of any monthly periodic benefit* payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day such individual was employed by such entity, such service did not constitute "employment" as defined in section 210 for purposes of this title. *The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.*

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

PARENT'S INSURANCE BENEFITS

(h)(1) Every parent (as defined in this subection) of an individual who died a fully insured individual if such parent—

(A) has attained age 62,

(B)(i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,

(C) has not married since such individual's death,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such amount is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case), and

(E) has filed application for parent's insurance benefits,

shall be entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which such parent becomes so entitled to such parent's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case).

(2)(A) Except as provided in subparagraphs (B) and (C), such parent's insurance benefit for each month shall be equal to 8½ percent of the primary insurance amount of such deceased individual.

(B) For any month for which more than one parent is entitled to parent's insurance benefits on the basis of such deceased individual's wages and self-employment income, such benefit for each such parent for such month shall (except as provided in subparagraph (C)) be equal to 75 percent of the primary insurance amount of such deceased individual.

(C) In any case in which—

(i) any parent is entitled to a parent's insurance benefit for a month on the basis of a deceased individual's wages and self-employment income, and

(ii) another parent of such deceased individual is entitled to a parent's insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent's benefits referred to in clause (i) was filed,

the amount of the parent's insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent's insurance beneft of a parent referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 203(a)) of the benefit for such month of the parent referred to in clause (i).

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

(4) In the case of a parent who marries—

((A) an individual entitled to benefits under this subsection or subsection (b), *(c),* (e), (f), or (g) or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage **[**; except that, in the case of such a marriage to a male individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death**]**.

* * * * * * *

APPLICATION FOR MONTHLY INSURANCE BENEFITS

(j)(1) Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to—

(A) the end of the twelfth month immediately succeeding such month in any case where the individual (i) is filing application for a benefit under subsection (e) or (f), and satisfies paragraph (1)(B) of such subsection by reason of clause (ii) thereof, or (ii) is filing application for a benefit under subsection (b), (c), or (d) on the basis of the wages and self-employment income of a person entitled to disability insurance benefits, or

(B) the end of the sixth month immediately succeeding such month in any case where subparagraph (A) does not apply.

Any benefit under this title for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to a monthly benefit under subsection (a), (b), (c), (e), or (f) for any month prior to the month in which he or she files an application for benefits under that subsection if the effect of entitlement to such benefit would be to reduce, pursuant to subsection (q), the amount of the monthly benefit to which such individual would otherwise be entitled for the month in which such application is filed.

(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would (except for subparagraph (A)) be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsections (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(ii) If the individual applying for retroactive benefits is a widow, surviving divorced wife, or widower and is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow or widower or disabled surviving divorced wife for any month before attaining the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(iii) Subparagraph (A) does not apply to a benefit under subsection (e) or (f) for the month immediately preceding the month of application, if the insured individual died in that preceding month.

[(iii)**]** *(iv)* If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.

[(iv)**]** *(v)* As used in this subparagraph, the term "retroactive benefits" means benefits to which an individual becmes entitled for a month prior to the month in which application for such benefits is filed.

SIMULTANEOUS ENTITLEMENT TO BENEFITS

(k)(1) A child, entitled to child's insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child's insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) hereof, to child's insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child's insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child's insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

(2)(A) Any child who under the preceding provisions of this section is entitled for any month to child's insurance benefits on the wages and self-employment income of more than one insured individual shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month. Such child's insurance benefits for such month shall be the benefit based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount, except that such child's insurance benefits for such month shall be the largest benefit to which such child could be entitled under subsection (d) (without the application of section 203(a)) or subsection (m) if entitlement to such benefit would not, with respect to any person, result in a benefit lower (after the application of section 203(a)) than the benefit which would be applicable if such child were entitled on the wages and self-employment income of the individual with the greatest primary insurance amount. Where more than one child is entitled to child's insurance benefits pursuant to the preceding provisions of this paragraph, each such child who is entitled on the wages and self-employment income of the same insured individuals shall be entitled on the wages and self-employment income of the same such insured individual.

(B) Any individual (other than an individual to whom subsection **[**(e)(4)**]***(e)(3)* or **[**(f)(5)**]***(f)(4)* applies) who, under the preceding provisions of this section and under the provisions of section 223, is entitled for any month to more than one monthly insurance benefit (other than old-age or disability insurance benefit) under this title shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph (B)) would otherwise be entitled for such months. Any individual who is entitled for any month to more than one widow's or widower's insurance benefit to which subsection **[**(e)(4)**]***(e)(3)* or **[**(f)(5)**]***(f)(4) applies shall be entitled to only one such benefit for such month, such benefit to be the largest of such benefits.*

(3)(A) If an individual is entitled to an old-age or disability insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month after any reduction under subsection (q), subsection (e)(2) or (f)(3), and any reduction under section 203(a), shall be reduced, but not below zero, by an amount equal to such old-age or disability insurance benefit (after reduction under such subsection (q)).

(B) If an individual is entitled for any month to a widow's or widower's insurance benefit to which subsection **[**(e)(4)**]***(e)(3)* or **[**(f)(5)**]***(f)(4)* applies and to any other monthly insurance benefit under section 202 (other than an old-age insurance benefit), such other insurance benefit for such month, after any reduction under subparagraph (A), any reduction under subsection (q), and any reduction under section 203(a), shall be reduced, but not below zero, by an amount equal to such widow's or widower's insurance benefit after any reduction or reductions under such subparagraph (A) and such section 203(a).

(4) Any individual who, under this section and section 223, is entitled for any month to both an old-age insurance benefit and a disability insurance benefit under this title shall be entitled to only the larger of such benefits for such month, except that, if such individual so elects, he shall instead be entitled to only the smaller of such benefits for such month.

* * * * * * *

[As Applicable After the Enactment of Section 2 of P.L. 97-123]

MINIMUM SURVIVOR'S BENEFIT

(m)(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215 (a) or (d), as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, that individual's benefit amount for that month, prior to reduction under subsection (k)(3), shall not be less than that provided by subparagraph (C)(i)(I) of section 215(a)(1) and increased under section 215(i) for months after **[**May**]** *November* of the year in which the insured individual died as though such benefit were a primary insurance amount.

(2) In the case of any such individual who is entitled to a monthly benefit under subsection (e) or (f), such individual's benefit amount, after reduction under subsection (q)(1), shall be not less than—

(A) $84.50, if his first month of entitlement to such benefit is the month in which such individual attained age 62 or a subsequent month, or

(B) $84.50 reduced under subsection (q)(1) as if retirement age as specified in subsection **[**(q)(6)(A)(ii)**]** *(q)(6)(B)* were age 62 instead of the age specified in subsection (q)(9), if his first month of entitlement to such benefit is before the month in which he attained age 62.

(3) In the case of any individual whose benefit amount was computed (or recomputed) under the provisions of paragraph (2) and such individual was entitled to benefits under subsection (e) or (f) for a month prior to any month after 1972 for which a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under section 215(i) becomes effective, the benefit amount of such individual as computed under paragraph (2) without regard to the reduction specified in subparagraph (B) thereof shall be increased by the percentage increase applicable for such benefit increase, prior to the application of subsection (q)(1) pursuant to paragraph (2)(B) and subsection (q)(4).

* * * * * * *

REDUCTION OF BENEFIT AMOUNTS FOR CERTAIN BENEFICIARIES

(q)(1) If the first month for which an individual is entitled to an old-age, wife's, husband's, widow's, or widower's insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for such month and for any subsequent month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

(A) $\frac{5}{9}$ of 1 percent of such amount if such benefit is an old-age insurance benefit, $\frac{25}{36}$ of 1 percent of such amount if such benefit is a wife's or husband's insurance benefit, or $\frac{19}{40}$ of 1 percent of such amount if such benefit is a widow's or widower's insurance benefit, multiplied by—

(B)(i) the number of months in the reduction period for such benefit (determined under paragraph (6)[(A)]), if such benefit is for a month before the month in which such individual attains retirement age, or

(ii) if less, the number of such months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is (I) for the month in which such individual attains age 62, or (II) for the month in which such individual attains retirement age[;

[and in the case of a widow or widower whose first month of entitlement to a widow's or widower's insurance benefit is a month before the month in which such widow or widower attains age 60, such benefit, reduced pursuant to the preceding provisions of this paragraph (and before the application of the second sentence of paragraph (8)), shall be further reduced by—

[(C) $^{43}/_{240}$ of 1 percent of the amount of such benefit, multiplied by—

[(D)(i) the number of months in the additional reduction period for such benefit (determined under paragraph (6)(B)), if such benefit is for a month before the month in which such individual attains age 62, or

[(ii) if less, the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains age 62 or any month thereafter.].

(2) If an individual is entitled to a disability insurance benefit for a month after a month for which such individual was entitled to an old-age insurance benefit, such disability insurance benefit for each month shall be reduced by the amount such old-age insurance benefit would be reduced under paragraphs (1) and (4) for such months had such individual attained age 65 in the first month for which he most recently became entitled to a disability insurance benefit.

(3)(A) If the first month for which an individual both is entitled to a wife's, husband's, widow's, or widower's insurance benefit and has attained age 62 (in the case of a wife's or husband's insurance benefit) or age 50 (in the case of a widow's or widower's insurance benefit) is a month for which such individual is also entitled to—

(i) an old-age insurance benefit (to which such individual was first entitled for a month before he attains age 65), or

(ii) a disability insurance benefit,

then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife's, husband's, widow's, or widower's insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).

(B) For any month for which such individual is entitled to an old-age insurance benefit and is not entitled to a disability insurance benefit, such individual's wife's, or husband's insurance benefit shall be reduced by the sum of—

(i) the amount by which such old-age insurance benefit is reduced under paragraph (1) for such month, and

(ii) the amount by which such wife's or husband's insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's or husband's insurance benefit (before reduction under this subsection) over such old-age insurance benefit (before reduction under this subsection).

(C) For any month for which such individual is entitled to a disability insurance benefit, such individual's wife's husband's, widow's, or widower's insurance benefit shall be reduced by the sum of—

(i) the amount by which such disability insurance benefit is reduced under paragraph (2) for such month (if such paragraph applied to such benefit), and

(ii) the amount by which such wife's, husband's, widow's, or widower's insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's, husband's, widow's, or widower's insurance benefit (before reduction under this subsection) over such disability insurance benefit (before reduction under this subsection).

(D) For any month for which such individual is entitled neither to an old-age insurance benefit nor to a disability insurance benefit, such individual's wife's, husband's, widow's, or widower's insurance benefit shall be reduced by the amount by which it would be reduced under paragraph (1).

(E) If the first month for which an individual is entitled to an old-age insurance benefit (whether such first month occurs before, with, or after the month in which such individual attains the age of 65) is a month for which such individual is also (or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower *or surviving divorced husband*, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he attained retirement age, then such old-age insurance benefit shall be reduced by whichever of the following is the larger:

(i) the amount by which (but for this subparagraph) such old-age insurance benefit would have been reduced under paragraph (1), or

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)**[**(A)**]** ended with the month before the month in which she or he attained age 62 and (II) the amount by which such old-age insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such old-age insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(F) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs with or after the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower *or surviving divorced hus-*

band, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he attained retirement age, then such disability insurance benefit shall be reduced by whichever of the following is the larger:

(i) the amount by which (but for this subparagraph) such disability insurance benefit would have been reduced under paragraph (1), or

(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)[(A)] ended with the month before the month in which she or he attained age 62 and (II) the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(G) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs before the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of widower *or surviving divorced husband*, be) entitled to a widow's or widower's insurance benefit, then such disability insurance benefit for each month shall be reduced by the amount such widow's or widower's insurance benefit would be reduced under paragraphs (1) and (4) for such month as if the period specified in [paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B))] *paragraph (6)* ended with the month before the first month for which she or he most recently became entitled to a disability insurance benefit.

(H) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to a widow's or widower's insurance benefit is a month for which such individual is also entitled to an old-age insurance benefit to which such individual was first entitled for that month or for a month before she or he became entitled to a widow's or widower's benefit, the reduction in such widow's or widower's insurance benefit shall be determined under paragraph (1).

(4) If—

(A) an individual is or was entitled to a benefit subject to reduction under paragraph (1) or (3) of this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7)) for each month beginning with the month of such increase in the primary insurance amount shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and after the month for which the individual first became entitled to such monthly benefit reduced under such paragraph (1) or (3).

(5)(A) No wife's *or husband's* insurance benefit shall be reduced under this subsection—

(i) for any month before the first month for which there is in effect a certificate filed by *him or* her with the Secretary, in accordance with regulations prescribed by him, in which *he or* she elects to receive wife's *or husband's* insurance benefits reduced as provided in this subsection, or

(ii) for any month in which *he or* she has in *his or* her care (individually or jointly with the person on whose wages and self-employment income [her] *the* wife's *or husband's* insurance benefit is based) a child of such person entitled to child's insurance benefits.

(B) Any certificate described in subparagraph (A)(i) shall be effective for purposes of this subsection (and for purposes of preventing deductions under section 203(c)(2))—

(i) for the month in which it is filed and for any month thereafter, and

(ii) for months, in the period designated by [the woman] *the individual* filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which *he or* she attains age 62, nor shall it be effective for any month to which subparagraph (A)(ii) applies.

(C) If [a woman] *an individual* does not have in *his or* her care a child described in subparagraph (A)(ii) in the first month for which *he or* she is entitled to a wife's *or husband's* insurance benefits, and if such first month is a month before the month in which *he or* she attains age 65, *he or* she shall be deemed to have filed in such first month the certificate described in subparagraph (A)(i).

(D) No widow's *or widower's* insurance benefit for a month in which *he or* she has in *his or* her care a child of *his or* her deceased [husband] *spouse* (or deceased former husband) entitled to child's insurance benefits shall be reduced under this subsection below the amount to which *he or* she would have been entitled had *he or* she been entitled for such month to mother's *or father's* insurance benefits on the basis of *his or* her deceased [husband's] *spouse's* (or deceased former [husband's] *spouse's)* wages and self-employment income.

[(6) For the purposes of this subsection—

[(A) the "reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the period—

[(i) beginning—

[(I) in the case of an old-age or husband's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit, or

[(II) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

[(III) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

[(ii) ending with the last day of the month before the month in which such individual attains retirement age; and

[(B) the "additional reduction period" for an individual's widow's, or widower's insurance benefit is the period—

[(i) beginning with the first day of the first month for which such individual is entitled to such benefit, but only if such individual has not attained age 60 in such first month, and

[(ii) ending with the last day of the month before the month in which such individual attains age 60.]

(6) For purposes of this subsection, the "reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the period—

(A) beginning—

(i) in the case of an old-age insurance benefit, with the first day of the first month for which such individual is entitled to such benefit,

(ii) in the case of a wife's or husband's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

(iii) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

(B) ending with the last day of the month before the month in which such individual attains retirement age.

[(7) For purposes of this subsection the "adjusted reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6)(A) for such benefit, and the "additional adjusted reduction period" for an individual's, widow's, or widower's insurance benefit is the additional reduction period prescribed by paragraph (6)(B) for such benefit, excluding from each such period—]

(7) For purposes of this subsection, the "adjusted reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—

(A) any month in which such benefit was subject to deductions under section 203(b), 203(c)(1), 203(d)(1), or 222(b),

(B) in the case of wife's *or husband's* insurance benefits, any month in which [she] *such individual* had in *his or* her care (individually or jointly with the person on whose wages and self-employment income such benefit is based) a child of such person entitled to child's insurance benefits,

(C) in the case of wife's or husband's insurance benefits, any month for which such individual was not entitled to such benefits because of the occurrence of an event that terminated her or his entitlements to such benefits,

(D) in the case of widow's *or widower's* insurance benefits, any month in which the reduction in the amount of such benefit was determined under paragraph (5)(D),

(E) in the case of widow's or widower's insurance benefits, any month before the month in which she or he attained age 62, and also for any later month before the month in which he attained retirement age, for which she or he was not entitled to such benefit because of the occurrence of an event that terminated her or his entitlement to such benefits, and

(F) in the case of old-age insurance benefits, any month for which such individual was entitled to a disability insurance benefit.

(8) This subsection shall be applied after reduction under section 203(a) and before application of section 215(g). If the amount of any reduction computed under paragraph (1), (2), or (3) is not a multiple of $0.10, it shall be increased to the next higher multiple of $0.10.

(9) For purposes of this subsection, the term "retirement age" means age 65.

(10) For purposes of applying paragraph (4), with respect to monthly benefits payable for any month after December 1977 to an individual who was entitled to a monthly benefit as reduced under paragraph (1) or (3) prior to January 1978, the amount of reduction in such benefit for the first month for which such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based and for all subsequent months (and similarly for all subsequent increases) shall be increased by a percentage equal to the percentage increase in such primary insurance amount (such increase being made in accordance with the provisions of paragraph (8)). In the case of an individual whose reduced benefit under this section is increased as a result of the use of an adjusted reduction period **[**or an additional adjusted reduction period**]** (in accordance with paragraphs (1) and (3) of this subsection), then for the first month for which such increase is effective, and for all subsequent months, the amount of such reduction (after the application of the previous sentence, if applicable) shall be determined—

(A) in the case of old-age, wife's, and husband's insurance benefits, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period to (ii) the number of months in the reduction period,

(B) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 62, by multiplying such amount by the ratio of (i) the number of months in the reduction period beginning with age 62 multiplied by $^{19}/_{40}$ of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by $^{19}/_{40}$ of 1 percent **[**, plus the number of months in the adjusted additional reduction period multiplied by $^{43}/_{240}$ of 1 percent**]** to (ii) the number of months in the reduction period multiplied by $^{19}/_{40}$ of 1 percent, **[**plus the number of months in the additional reduction period multiplied by $^{43}/_{240}$ of 1 percent,**]** and

(C) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 65, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period multplied by $^{19}/_{40}$ of 1 percent [, plus the number of months in the adjusted additional reduction period multiplied by $^{43}/_{240}$ of 1 percent] to (ii) the number of months in the reduction period beginning with age 62 multiplied by $^{19}/_{40}$ of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by $^{19}/_{40}$ of 1 percent, [plus the number of months in the adjusted additional reduction period multiplied by $^{43}/_{240}$ of 1 percent.]

such determination being made in accordance with the provisions of paragraph (8).

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CHILD OVER SPECIFIED AGE TO BE DISREGARDED FOR CERTAIN BENEFIT PURPOSES UNLESS DISABLED

(s)(1) For the purposes of subsections (b)(1), *(c)(1),* (g)(1), (q)(5), and (q)(7) of this section and paragraphs (2), (3), and (4) of section 203(c), a child who is entitled to child's insurance benefits under subsection (d) for any month, and who has attained the age of 16 but is not in such month under a disability (as defined in section 223(d)), shall be deemed not entitled to such benefits for such month, unless he was under such a disability in the third month before such month.

(2) [Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4)] *So much of subsections (b)(3), (c)(4), (d)(5), (g)(3), and (h)(4)* of this section as precedes the semicolon, shall not apply in the case of any child unless such child, at the time of the marriage referred to therein, was under a disability (as defined in section 223(d)) or had been under such a disability in the third month before the month in which such marriage occurred.

(3) [So much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the last sentence] *The last sentence* of subsection (c) of section 203, subsection (f)(1)(C) of section 203, and subsections (b)(3)(B), (c)(6)(B), (f)(3)(B), and (g)(6)(B) of section 216 shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 223(d)).

INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON ACCOUNT OF DELAYED RETIREMENT

(w)(1) The amount of an old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215(a)(3) as in effect in December 1978 or section 215(a)(1)(C)(i) as in effect thereafter) which is payable without regard to this subsection to an individual shall be increased by—

[(A) $^{1}/_{12}$ of 1 percent of such amount, or, in the case of an individual who first becomes eligible for an old-age insurance benefit after December 1978, one-quarter of 1 percent of such amount, multiplied by]

(A) the applicable percentage (as determined under paragraph (6)) of such amount, multiplied by

(B) the number (if any) of the increment months for such individual.

(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

(A) which have elapsed after the month before the month in which such individual attained age 65 or (if later) December 1970 and prior to the month in which such individual attained age **[**72**]**, *70,* and

(B) with respect to which—

(i) such individual was a fully insured individual (as defined in section 214(a)), and

(ii) such individual either was not entitled to an old-age insurance benefit or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit.

(3) For purposes of applying the provisions of paragraph (1), a determination shall be made under paragraph (2) for each year, beginning with 1972, of the total number of an individual's increment months through the year for which the determination is made and the total so determined shall be applicable to such individual's old-age insurance benefits beginning with benefits for January of the year following the year for which such determination is made; except that the total number applicable in the case of an individual who attains **[**age 72 after 1972**]** *age 70* shall be determined through the month before the month in which he attains such age and shall be applicable to his old-age insurance benefit beginning with the month in which he attains such age.

(4) This subsection shall be applied after reduction under section 203(a).

(5) If an individual's primary insurance amount is determined under paragraph (3) of section 215(a) as in effect in December 1978, or section 215(a)(1)(C)(i) as in effect thereafter, and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 215(a) (whether before, in, or after December 1978) without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph.

(6) For purposes of paragraph (1)(A), the "applicable percentage" is—

(A) 1/12 of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year before 1979;

(B) 1/4 of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year after 1978 and before 1987;

(C) in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 1986 and before 2005, a percentage equal to the applicable percentage in effect under this paragraph for persons who first became eligi-

ble for an old-age insurance benefit in the preceding calendar year (as increased pursuant to this subparagraph), plus $\frac{1}{24}$ of 1 percent if the calendar year in which that particular individual first becomes eligible for such benefit is not evenly divisble by 2; and

(D) $\frac{2}{3}$ of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 2004.

REDUCTION OF INSURANCE BENEFITS

MAXIMUM BENEFITS

SEC. 203. (a)(1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215(a)(1) or (4), or section 215(d), as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraphs (3) and (6) (but prior to any increases resulting from the application of paragraph (2)(A)(ii)(III) of section 215(i)), be reduced as necessary so as not to exceed—

(A) 150 percent of such individual's primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

(B) 272 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

(C) 134 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

(D) 175 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.

(2)(A) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be $230, $332, and $433, respectively.

(B) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B)(ii) of section 215(a)(1), with such product being rounded in the manner prescribed by section 215(a)(1)(B)(iii).

(C) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 215(i)(2)(D)) is to be applicable under this paragraph to individuals who become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the following calendar year.

(D) A year shall not be counted as the year of an individual's death or eligibility for purposes of this paragraph or paragraph (8) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefits to which he was entitled during such 12 months).

(3)(A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 202(k)(2)(A)) be entitled to child's insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the basis[112] of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

[(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230.**]**

(ii) an amount (I) initially equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1), for January of the year determined for purposes of this clause under the following two sentences, with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230, and (II) thereafter increased in accordance with the provisions of section 215(i)(2)(A)(ii).

The year established for purposes of clause (ii) shall be 1983 or, if it occurs later with respect to any individual, the year in which occurred the month that the application of the reduction provisions contained in this subparagraph began with respect to benefits payable on the basis of the wages and self-employment income of the insured individual. If for any month subsequent to the first month for which clause (ii) applies (with respect to benefits payable on the basis of the wages and self-employment income of the insured individual) the reduction under this subparagraph ceases to apply, then the year determined under the preceding sentence shall be redetermined (for purposes of any subsequent application of this subparagraph with respect to benefits payable on the basis of such wages and self-employment income) as though this subparagraph had not been previously applicable.

(B) When two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

(i) the amount determined under this subsection without regard to this subparagraph,

(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under the provisions of section 215(i), an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this title (excluding any part thereof determined under section 202(w)) for the month before each effective month (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next lower multiple of $0.10);

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 202(k)(2)(A) was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 202(k(2)(A) ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

(C) When any of such individuals is entitled to monthly benefits as a divorced spouse under section 202(b) or (c) or as a surviving divorced spouse under section 202(e) or (f) for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be detemined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this sub-

section in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disabilty insurance benefit shall be proportionately decreased.

(5) Notwithstanding any other provisions of law, when—

(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

(B) such individual's primary insurance amount is increased for the following month under any provisions of this title,

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection 202(q) than the total of monthly benefits (after the application of the other provisions of this subsection and section 202(q)) payable on the basis of such wages and self-employment income for such particular month.

(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced (before the application of section 224) to the smaller of—

(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

(B) 150 percent of such individual's primary insurance amount.

(7) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 215(a)(1) or (4), or section 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to [the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for

that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined under section 230 for the year in which that month occurs] *the amount determined in accordance with the provisions of paragraph (3(A)(ii) of this subsection, except that for this purpose the references to subparagraph (A) in the last two sentences of paragraph (3)(A) shall be deemed to be references to paragraph (7).*

(8) Subject to paragraph (7), this subsection as in effect in December 1978 shall remain in effect with respect to a primary insurance amount computed under section 215(a) or (d), as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies (before becoming eligible for such a benefit), after December 1978, shall instead be governed by this section as in effect after December 1978. For purposes of the preceding sentence, the phrase "rounded to the next higher multiple of $0.10", as it appeared in subsection (a)(2)(C) of this section as in effect in December 1978, shall be deemed to read "rounded to the next lower multiple of $0.10".

(9) When—

(A) one or more persons were entitled (without the application of section 202(j)(1)) to monthly benefits under section 202 for May 1978 on the basis of the wages and self-employment income of an individual,

(B) the benefit of at least one such person for June 1978 is increased by reason of the amendments made by section 204 of the Social Security Amendments of 1977, and

(C) the total amount of benefits to which all such persons are entitled under such section 202 are reduced under the provisions of this subsection (or would be so reduced except for the first sentence of section 203(a)(4)),

then the amount of the benefit to which each such person is entitled for months after May 1978 shall be increased (after such reductions are made under this subsection) to the amount such benefits would have been if the benefit of the person or persons referred to in subparagraph (B) had not been so increased.

DEDUCTIONS ON ACCOUNT OF WORK

(b)*(1)* Deductions, in amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, and from any payment or payments to which any other persons are entitled on the basis of such individual's wages and self-employment income, until the total of such deductions equals—

[(1)]*(A)* such individual's benefit or benefits under section 202 for any month, and

[(2)]*(B)* if such individual was entitled to old-age insurance benefits under section 202(a) for such month, the benefit or benefits of all other persons for such month under section 202 based on such individual's wages and self-employment income.

if for such month he is charged with excess earnings, under the provisions of subsection (f) of this section, equal to the total of benefits referred to in clause [(1) and (2)]*(A)* and *(B)*. If the excess earnings so charged are less than such total benefits, such deductions with respect to such month shall be equal only to the amount of such excess earnings. If a child who has attained the age of 18 and is entitled to child's insurance benefits, or a person who is entitled to mother's *or father's* insurance benefits, is married to an individual entitled to old-age insurance benefits under section 202(a), such child or such person, as the case may be, shall, for the purposes of this subsection and subsection (f), be deemed to be entitled to such benefits on the basis of the wages and self-employment income of such individual entitled to old-age insurance benefits. If a deduction has already been made under this subsection with respect to a person's benefit or benefits under section 202 for a month, he shall be deemed entitled to payments under such section for such month for purposes of further deductions under this subsection, and for purposes of charging of each person's excess earnings under subsection (f), only to the extent of the total of his benefits remaining after such earlier deductions have been made. For purposes of this subsubsection and subsection (f)—

[(A)]*(i)* an individual shall be deemed to be entitled to payments under section 202 equal to the amount of the benefit or benefits to which he is entitled under such section after the application of subsection (a) of this section, but without the application of the [penultimate sentence] *first sentence of paragraph (4)* thereof; and

[(B)]*(ii)* if a deduction is made with respect to an individual's benefit or benefits under section 202 because of the occurrence in any month of an event specified in subsection (c) or (d) of this section or in section 222(b), such individual shall not be considered to be entitled to any benefits under such section 202 for such month.

(2) When any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of the individual referred to in paragraph (1) for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in paragraph (1) shall be determined as if no such divorced spouse were entitled to benefits for such month.

[DEDUCTIONS ON ACCOUNT OF NONCOVERED WORK OUTSIDE THE UNITED STATES OR FAILURE TO HAVE CHILD IN CARE

[(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

[(1) in which such individual is under the age of seventy[120] and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States; or

[(2) in which such individual, if a wife under age sixty-five entitled to a wife's insurance benefits, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit and such wife's insurance benefit for such month was not reduced under the provisions of section 202(q); or

[(3) in which such individual, if a widow entitled to a mother's insurance benefit, did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

[(4) in which such individual, if a surviving divorced mother entitled to a mother's insurance benefit, did not have in her care a child of her deceased former husband who (A) is her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

[For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).]

DEDUCTIONS ON ACCOUNT OF NONCOVERED WORK OUTSIDE THE UNITED STATES OR FAILURE TO HAVE CHILD IN CARE

(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

(1) in which such individual is under the age of seventy and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States;

(2) in which such individual, if a wife or husband under age sixty/five entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month was not reduced under the provisions of section 202(q);

(3) in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in his

or her care a child or his or her deceased spouse entitled to a child's insurance benefit; or

(4) in which such an individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit, did not have in his or her care a child or his or her deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefit for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).

DEDUCTIONS FROM DEPENDENTS' BENEFITS ON ACCOUNT OF NONCOVERED WORK OUTSIDE THE UNITED STATES BY OLD-AGE INSURANCE BENEFICIARY

(d)(1)*(A)* Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old-age insurance benefits, to which a wife, divorced wife, husband, *divorced husband,* or child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which such individual is under the age of seventy and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

(B) When any divorced spouse is entitled to monthly benefits under section 202(b) or (c) for any month, the benefit to which he or she is entitled for such month on the basis of the wages and self-employment income of the individual entitled to old-age insurance benefits referred to in subparagraph (A) shall be determined without regard to this paragraph, and the benefits of all other individuals who are entitled for such for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in subparagraph (A) shall be determined as if no such divorced spouse were entitled to benefits for such month.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother's *or father's* insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's *or father's* insurance benefit

or benefits under section 202 for any month in which such child or person entitled to mother's *or father's* insurance benefits is married to an individual who is entitled to old-age inurance benefits and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States.

OCCURRENCE OF MORE THAN ONE EVENT

(e) If more than one of the events specified in subsections (c) and (d) and section 222(b) occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

MONTHS TO WHICH EARNINGS ARE CHARGED

(f) For purposes of subsection (b)—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons *(excluding surviving spouses referred to in subsection (b)(2))* are entitled for such month under section 202 on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all *such* other persons are entitled for such month under section 202 on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 202(a) and other persons *(excluding divorced spouses referred to in subsection (b)(2))* are entitled to benefits under section 202(b), (c), or (d) on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 202(s), no part of the excess earnings of an individual shall be charged to any month (A) for which such individual was not entitled to a benefit under this title, (B) in which such individual was age seventy or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60) or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60), (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as deter-

mined under paragraph (8), if such month is in the taxable year in which occurs the first month after December 1977 that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8), or (F) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection) or under section 202 (d) or (g), if such month is in a year in which such entitlement ends for a reason other than the death of such individual, and such individual is not entitled to any benefits under this title for the month following the month during which such entitlement under section 202 (b), (d), or (g) ended.

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses, (A), (B), (C), (D), (E), and (F) thereof.

(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8), multiplied by the number of months in such year except that, in determining an individual's excess earnings for the taxable year in which he attains age 70, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary). The excess earnings as derived under the preceding sentence, if not a multiple of $1 shall be reduced to the next lower multiple of $1.

(4) For purposes of clause (E) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) An individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

(5)(A) An individual's earnings for a taxable year shall be (i) the sum of of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment such year.

(B) For purposes of this section—

(i) an individual's net earnings from self-employment for any taxable year shall be determined as provided in section 211, except that paragraphs (1), (4), and (5) of section 211(c) shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D), and

(ii) an individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in section 702(a)(9) of the Internal Revenue Code of 1954) taken into account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i)

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsection (a), (g)(2), (g)(3), (h)(2), and (j) of section 209; and in making such computation services which do not constitute employment as defined in section 210, performed within the United States by the individual as an employee or performed outside the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

(D) In the case of—

(i) an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary that he or she is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or

(ii) an individual who has become entitled to insurance benefits under this title, other than benefits under section 223 or benefits payable under section 202(d) by reason of being under a disability, and who shows to the satisfaction of the Secretary that he or she is receiving, in a year after his or her initial year of entitlement to such benefits, any other income not attributable to services performed after the month in which he or she initially became entitled to such benefits, there shall be excluded from gross income any such royalties or other income.

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons *(excluding divorced spouses referred to in subsection (b)(2))* are entitled under section 202 for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this title) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 202(k)(3), and prior to the application of section 203(a)) bears to the total of the benefits to which all of them are entitled.

(8)(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of **[**June**]** *December* following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the new exempt amounts (separately states for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death during such year).

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EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b)(1) The Secretary is directed to make findings of fact, and decisins as to the rights of any individual applying for a payment under this title. Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, *surviving divorced father,* husband, *divorced husband,* widower, *surviving divorced husband,* child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(2) In any case where—

(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and

(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Secretary not to be entitled to such benefits,

any reconsideration of the finding described in subparagraph (B), in connection with a reconsideration by the Secretary (before any hearing under paragraph (1) on the issue of such entitlement) of his determination described in subparagraph (C), shall be made only after opportunity for an evidentiary hearing, with regard to the finding described in subparagraph (B), which is reasonably accessible to such individual. Any reconsideration of a finding described in subparagraph (B) may be made either by the State agency or the Secretary where the finding was originally made by the State agency, and shall be made by the Secretary where the finding was originally made by the Secretary. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by the Secretary. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by such State agency, the evidentiary hearing shall be held by an adjudicatory unit of the

State agency other than the unit that made the finding described in subparagraph (B). In the case of a reconsideration by the Secretary of a finding described in subparagraph (B) which was originally made by the Secretary, the evidentiary hearing shall be held by a person other than the person or persons who made the finding described in subparagraph (B).

(c)(1) For the purposes of this subsection—

(A) The term "year" means a calendar year when used with respect to wages and a taxable year [159] when used with respect to self-employment income.

(B) The term "time limitation" means a period of three years, three months, and fifteen days.

(C) The term "survivor" means an individual's spouse, surviving divorced wife, *surviving divorced husband,* surviving divorced mother, *surviving divorced father,* child, or parent, who survives such individual.

(D) The term "period" when used with respect to self-employment income means a taxable year and when used with respect to wages means—

(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1954 or regulations thereunder (or on reports filed by a State under section 218(e) or regulations thereunder),

(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.

* * * * * * *

USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION

(r)(1) The Secretary is authorized to establish a program under which —

(A) States (or political subdivisions thereof) voluntarily contract with the Secretary to furnish the Secretary periodically with information (in a form established by the Secretary in consultation with the States) concerning individuals with respect to whom death certificates (or equivalent documents maintained by the States or subdivisions) have been officially filed with them;

(B) the Secretary compared such information on such individuals with information on such individuals in the records being used in the administration of this Act; and

(C) the Secretary makes any appropriate corrections in such records to accurately reflect the status of such individuals.

(2) Each State (or political subdivision thereof) which furnishes the Secretary with information on records of deaths in the State or subdivision under this subsection shall be paid by the Secretary from amounts available for administration of this Act the reason-

able costs (established by the Secretary) for transcribing and transmitting such information to the Secretary.

(3) In the case of individuals with respect to whom benefits are provided by (or through) a Federal or State agency other than under this Act, the Secretary may provide, through a cooperative arrangement with such agency, for carrying out the duties described in paragraph (1)(B) with respect to such individuals if—

> *(A) under such arrangement the agency provides reimbursement to the Secretary for the reasonable cost of carrying out such arrangement, and*
>
> *(B) such arrangement does not conflict with the duties of the Secretary under paragraph (1).*

(4) Information furnished to the Secretary under this subsection may not be used for any purpose other than the purposes described in this subsection and is exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title.

* * * * * * *

ASSIGNMENT

Sec. 207. *(a)* The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

(b) No other provision of law, enacted before, on, or after the date of the enactment of this section, may be construed to limit, supersede, or otherwise modity the provisions of this section except to the extent that it does so be expressed reference to this section.

* * * * * * *

DEFINITION OF WAGES

Sec. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) * * *

* * * * * * *

> (e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section 165(a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501(a) of the Internal Revenue Code of 1954, unless such payment is made to an employee of the trust as remuneration for services rendered as such employees and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of

section 165(a)(3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954 and prior to 1963, the requirements of section 401(a)(3), (4), (5), and (6) of the Internal Revenue Code of 1954, or (3) under or to an annuity plan which, at the time of any such payment after 1962, is a plan described in section 403(a) of the Internal Revenue Code of 1954, or (4) under or to a bond purchase plan which, at the time of any such payment after 1962, is a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1954[;], *or (5) under a simplified employee pension (as defined in section 408(k) of the Internal Revenue Code of 1954) if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) of such Code for such payment;*

(f) The payment by an employer (without deduction from the remuneration of the employee)—

(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954, or

(2) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(g)(1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 210(f)(5);

(3) Cash remuneration paid by an employer in any calendar year to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such year by the employer to the employee for such service is less than $100. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 210(f)(5);

(h)(1) Remuneration paid in any medium other than cash for agricultural labor;

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (A) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or (B) the employee performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis;

[(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62, if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 218(b)(2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness;]

* * * * * * *

(p) Any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 of the Internal Revenue Code of 1954 (relating to amounts receive under qualified group legal services plans); **[**or**]**

(q) Any payments made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 of the Internal Revenue Code of 1954**[**.**]**; *or*

(r) The value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the Internal Revenue Code of 1954.

Nothing in the regulations prescribed for purposes of chapter 24 of the Internal Revenue Code of 1954 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this title.

For purposes of this title, in the case of domestic service described in subsection (g)(2), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g)(2).

For purposes of this title, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 210(l)(1) are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act.

For purposes of this title, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 210(o) are applicable, (1) the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only amounts certified as payable pursuant to section 5(c) or 6(l) of the Peace Corps Act, and (2) any such amount shall be deemed to have been paid to such individual at the time the service, with respect to which it is paid, is performed.

For purposes of this title, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received.

For purposes of this title, in any case where an individual is a member of a religious order (as defined in section 3121(r)(2) of the Internal Revenue Code of 1954) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of such Code is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than $100 a month.

For purposes of this title, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term "wages" shall, subject to the provisions of subsection (a) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.

Nothing in any of the foregoing provisions of this section (other than subsection (a)) shall exclude from the term "wages" any employer contribution—

(1) under a qualified cash or deferred arrangement (as defined in section 401(k)) of the Internal Revenue Code of 1954 to the extent not included in gross income by reason of section 402(a)(8) of such Code.

(2) under a cafeteria plan (as defined in section 125(d) of such Code) to the extent the employee had the right to choose cash, property, or other benefits which would be wages for purposes of this title, or

(3) for an annuity contract described in section 403(b) of such Code.

DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—Employment

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 [either] (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the perfomance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or [(B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e)), or (ii) of a foreign subsidiary (as defined in section 3121(l) of the Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of the Internal Revenue Code of 1954, with respect to such subsidiary] (B) outside the United States by a citizen or resident of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign affiliate (as defined in section 3121(l)(8) of the Internal Revenue Code of 1954) of an American employer during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of such Code, with respect to such affiliate, or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)(A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B)(i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

[(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 of the Internal Revenue Code by virtue of any provision of law which specifically refers to such section in granting such exemption;

[(6)(A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

[(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

[(i) service performed in the employ of a corporation which is wholly owned by the United States;

[(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

[(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

[(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

[(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the Secretary of Transportation, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

[(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

[(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

[(ii) in the legislative branch;

[(iii) in a penal institution of the United States by an inmate thereof;

[(iv) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training;

[(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

[(vi) by any individual to whom subchapter III of chapter 83 of title 5, United States Code, does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority);]

(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

(A) would be excluded from the term "employment" for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government or members of the uniformed services;

except that this paragraph shall not apply with respect to—

(i) service performed as the President of Vice President of the United States,

(ii) service performed—

(I) in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code,

(II) as a noncareer appointee in the Senior executive Service or a noncareer member of the Senior Foreign Service, or

(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a) (1), 106(a) (1), or 107(a) (1) or (b) (1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

(iii) service performed as the Chief Justice of the United States, an associate justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankrupty judge,

(iv) service performed as a Member, Delegate, or President Commissioner of or to the Congress, or

(v) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

(6) Service performed in the employ of the United States if such service in performed—

(A) in a penal institution of the United States by an inmate thereof;

(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employee of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood or other similar emergency;

* * * * * * *

(8)**[**(A)**]** Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this **[**subparagraph**]** *paragraph* shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

[(B) Service performed in the employ of a religions, charitable, educational, or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of such Code, but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3132(k) of the Internal Revenue Code of 1954 (or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k)), is in effect if such service is performed by an employee—

[(i) whose signature appears on the list filed (or deemed to have been filed) by such organization under such section 3121(k),

[(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed (or deemed to have been filed), or

[(iii) who, after the calendar quarter in which the certificate was filed (or deemed to have been filed) with respect to a group described in paragraph (1)(E) of such section 3121(k), became a member of such group,

[except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in such paragraph (1)(E) with respect to which no certificate is (or is deemed to be) in effect;]

* * * * * * *

MEDICARE QUALIFIED FEDERAL EMPLOYMENT

(p) For purposes of sections 226 and 226A, the term "medicare qualified Federal employment" means any service which would constitute "employment" as defined in subsection (a) of this section but for the application of the [provisions of—

[(1) subparagraph (A), (B), or (C)(i), (ii), or (vi) of subsection (a)(6), or

[(2) subsection (a)(5)] *provisions of subsection (a)(5).*

SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

NET EARNINGS FROM SELF-EMPLOYMENT

(a) The term "net earnings from self-employment" means the gross income, as computed under chapter 1 of the Internal Revenue Code, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such chapter which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 183 of such code, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) * * *

* * * * * * *

[(10) In the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) of the Internal Revenue Code of 1954 shall not apply; and]

(10) the exclusion from gross income provided by section 911(a)(1) of the Internal Revenue Code of 1954 shall not apply; and

[Effective with respect to taxable years beginning after December 31, 1981, and before January 1, 1984]

(10) in the case of an individual described in section 911(d)(1)(B) of the Internal Revenue Code of 1954, the exclusion from gross income provided by section 911(a)(1) of such Code shall not apply; and

* * * * * * *

SELF-EMPLOYMENT INCOME

(b) The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual, *except as provided by an agreement under section 233*) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) $3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and prior to 1959, (i) $4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958 and prior to 1966, (i) $4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(D) For any taxable year ending after 1965 and prior to 1968, (i) $6,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(E) For any taxable year ending after 1967 and beginning prior to 1972, (i) $7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(F) For any taxable year beginning after 1971 and prior to 1973, (i) $9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(G) For any taxable year beginning after 1972 and prior to 1974, (i) $10,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(H) For any taxable year beginning after 1973 and prior to 1975, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(I) For any taxable year beginning in any calendar year after 1974, (i) an amount equal to the contribution and benefit base (as determined under section 230) which is effective for such calendar year, minus (ii) the amount of the wages paid to such individual during such taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than $400.

An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for the purposes of this subsection, be considered to be a nonresident alien individual.

* * * * * * *

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 215. For the purposes of this title—

PRIMARY INSURANCE AMOUNT

(a)(1)(A) The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—

(i) [90 percent] *the applicable percentage (determined under paragraph (8))* of the individual's average indexed monthly earnings (determined under subsection (b)) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),

(ii) [32 percent] *the applicable percentage (determined under paragraph (8))* of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exeed the amount established for purposes of this clause by subparagraph (B), and

(iii) [15 percent] *the applicable percentage (determined under paragraph (8))* of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii),

rounded, if not a mutliple of $0.10, to the next lower multiple of $0.10, and thereafter increased as provided in subsection (i).

(B)(i) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible of such benefits), in the calendar year 1979, the amount established for purposes of clause (i) and (ii) of subparagraph (A) shall be $180 and $1,085, respectively.

(ii) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible of such benefits), in the calendar year 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year preceding the calendar year for which the determination is made, by

(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year 1977.

(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest $1, except that any amounts so established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher $1.

* * * * * * *

(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who—

(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

(ii) would attain age 62 after 1985 and becomes entitled to a disability insurance benefit after 1985,

and who is entitled to a monthly periodic payment (including a payment determined under subparagraph (C)) based in whole or in part upon his or her earnings for service which did not constitute "employment" as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d)(5) referred to as "noncovered service"), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B) with respect to the initial month in which the individual becomes eligible for such benefits. Notwithstanding the preceding sentence, in no case shall the primary insurance amount of an insured individual be computed or recomputed under this paragraph if the monthly periodic payment to which such individual is entitled is based in whole or in part on earnings derived from the performance of service as an employee of the United States, or of an instrumentality of the United States, before 1971, and such service constituted "employment" as defined in section 210(a).

(B) If paragraph (1) of this subsection would apply to such an individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under the preceding paragraphs of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the applicable percentage as determined under paragraph (8). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under the preceding paragraphs of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service (with such attribution being based on the proportionate number of years of noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

(C)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Secretary), and such equivalent

monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivors benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(5) by the amount of such reduction.

(iii) If an individual to whom subparagraph (A) applies is eligible for a periodic payment beginning with a month that is subsequent to the month in which he or she becomes eligible for old-age or disability insurance benefits, the amount of that payment (for purposes of subparagraph (B)) shall be deemed to be the amount to which he or she is, or is deemed to be, entitled (subject to clauses (i), (ii), and (iv) of this subparagraph) in such subsequent month.

(iv) For purposes of this paragraph, the term "periodic payment" includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(8) The "applicable percentages" for purposes of clauses (i), (ii), and (iii) of paragraph (1)(A), and the "applicable percentage" for purposes of the first sentence of paragraph (7)(B), shall be determined as follows:

For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in—	*The "applicable percentage"—*			
	for purposes of clause (i) of paragraph (1)(A) is	*for purposes of clause (ii) of paragraph (1)(A) is—*	*for purposes of clause (iii) of paragraph (1)(A) is—*	*for purposes of the first sentence of paragraph (7)(B) is—*
any year from 1979 through 1999	*90.0*	*32.0*	*15.0*	*61.0*
2000	*89.4*	*31.8*	*14.9*	*60.6*
2001	*88.8*	*31.6*	*14.8*	*60.2*
2002	*88.2*	*31.4*	*14.7*	*59.8*
2003	*87.6*	*31.1*	*14.6*	*59.4*
2004	*87.0*	*30.9*	*14.5*	*59.0*
2005	*86.4*	*30.7*	*14.4*	*58.6*
2006	*85.8*	*30.5*	*14.3*	*58.2*
2007 or thereafter	*85.2*	*30.3*	*14.2*	*57.7*

AVERAGE INDEXED MONTHLY EARNINGS; AVERAGE MONTHLY WAGE

(b)(1) * * *

* * * * * * *

(3)(A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

(ii) the quotient obtained by dividing—

(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year (after 1976) preceding the earliest of the year of the individual's death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (except that the year in which the individual dies, or becomes eligible, shall not be considered as such year if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such death or eligibility, but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit to which he was entitled in such 12-month period), by

(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the computation base year for which the determination is made.

(B) Wages paid in or self-employment income credited to an individual's computation base year which—

(i) occurs after the second calendar year specified in subparagraph (A)(ii)(I), or

(ii) is a year treated under subsection (f)(2)(C) as though it were the last year of the period specified in paragraph (2)(B)(ii),

shall be available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

* * * * * * *

PRIMARY [illegible] BENEFIT UNDER 1939 ACT

(d)(1) * * *

* * * * * * *

(5) In the case of an [illegible] whose primary insurance amount is not computed under paragraph (1) of subsection (a) by reason of paragraph (4)(B)[illegible] of that subsection, who—

(A) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986, and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

(B) would attain age 62 after 1985 and becomes entitled to a disability insurance benefit after 1985,

and who is entitled to a monthly periodic payment (including a payment determined under subsection (a)(7)(C)) based (in whole or in part) upon his or her earnings in noncovered service, the primary insurance amount of such individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under this subsection (without regard to this paragraph and before the application of subsection (i)) reduced by an amount equal to the smaller of—

(i) one-half of the primary insurance amount (computed without regard to this paragraph and before the application of subsection (i)), or

(ii) one-half of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(C)) which is attributable to noncovered service (with such attribution being based on the proportionate number of years of noncovered service) and to which that individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits.

Notwithstanding the preceding sentence, in no case shall the primary insurance amount of an insured individual be computed or recomputed under this paragraph if the monthly periodic payment to which such individual is entitled is based in whole or in part on earnings derived from the performance of service as an employee of the United States, or of an instrumentality of the United States, before 1971, and such service constituted "employment" as defined in section 210(a).

* * * * * * *

RECOMPUTATION OF BENEFITS

(f)(1) After an individual's primary insurance amount has been determined under this section, there shall be no recomputation of such individual's primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 217(b).

* * * * * * *

(9)(A) In the case of an individual who becomes entitled to a periodic payment determined under subsection (a)(7)(A) (including a payment determined under subsection (a)(7)(C)) in a month subsequent to the first month in which he or she becomes entitled to an old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(5), such individual's primary insurance amount shall be recomputed, in accordance with either such subsection or subsection (d)(5), as may be applicable, effective with the first month of his or her concurrent entitlement to such benefit and such periodic payment.

(B) If an individual's primary insurance amount has been computed under subsection (a)(7) or (d)(5), and it becomes necessary to recompute that primary insurance amount under this subsection—

(i) so as to increase the monthly benefit amount payable with respect to such primary insurance amount (except in the case of the individual's death), such increase shall be determined as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5), or

(ii) by reason of the individual's death, such primary insurance amount shall be recomputed without regard to (and as though it had never been computed with regard to) subsection (a)(7) or (d)(5).

COST-OF-LIVING INCREASES IN BENEFITS

(i)(1) For purposes of this subsection—

(A) the term "base quarter" means (i) the [calendar quarter ending on March 31 in each year after 1974] *calendar quarter ending on September 30 in each year after 1982*, or (ii) any other calendar quarter in which occurs the effective month of a general benefit increase under this title;

(B) the term "cost-of-living computation quarter" means a base quarter, as defined in subpargraph (A)(i) [in which the Consumer Price Index prepared by the Department of Labor exceeds, but not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was establish under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this title]; *with respect to which the applicable increase percentage is 3 percent or more;* except that there shall be no cost-of-living computation quarter in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year such a general benefit increase becomes effective; [and]

(C) the term "applicable increase percentage" means—

(i) with respect to a base quarter or cost-of-living computation quarter in any calendar year before 1988, or in any calendar year after 1987 for which the OASDI fund ratio is 20.0 percent or more, the CPI increase percentage; and

(ii) with respect to a base quarter or cost-of-living computation quarter in any calendar year after 1987 for which the OASDI fund ratio is less than 20.0 percent, the CPI increase percentage or the wage increase percentage, whichever (with respect to that quarter) is the lower;

(D) the term "CPI increase precentage", with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the Consumer Price Index for that quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii) or, if later, the most recent cost-of-living computation quarter under subparagraph (B);

(E) the term "wage increase percentage", with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the SSA average wage index for the year immediately preceding such calendar year exceeds such index for the year immediately preceding the most recent prior calendar year which included a base quarter under subparagraph (A)(ii) or, if later, which included a cost-of-living computation quarter;

(F) the term "OASDI fund ratio", with respect to any calendar year, means the ratio of—

(i) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of

any loan (including interest thereon) theretofore made to either such Fund from the Federal Hospital Insurance Trust Fund under section 201(l), as of the beginning of such year, to

(ii) the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during such calendar year for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account;

(G) the term "SSA average wage index", with respect to any calendar year, means the average of the total wages reported to the Secretary of the Treasury or his delegate for the preceding calendar year as determined for purposes of subsection (b)(3)(A)(ii); and

[(C)**]** *(H)* the Consumer Price Index for a base quarter, a cost-of-living computation quarter, or any other calendar quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

(2)(A)(i) The Secretary shall determine each year beginning with 1975 (subject to the limitation in paragraph (1)(B)) whether the base quarter (as defined in paragraph (1)(A)(i)) in such year is a cost-of-living computation quarter.

(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of **[**June**]** *December* of that year as provided in subparagraph (B), increase—

(I) the benefit amount to which individuals are entitled for that month under section 227 or 228,

(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title, and

(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 203 (and such total shall be increased, unless otherwise so increased under another provision of this title, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a)(7) and (8) as in effect after December 1978.

The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) **[**by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph

(1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B);] *by the applicable increase percentage;* and any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C)(i) of subsection (a)(1) shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Secretary under the last sentence of subparagraph (D)).

(iii) In the case of an individual who becomes eligible for an old-age or disability insurance benefit, or who dies prior to becoming so eligible, in a year in which, there occurs an increase provided under clause (ii), the individual's primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this title and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I) in the case of an individual to whom that subsection (as in effect in December 1981) applied, subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph (as then in effect) by the amount of that increase and subsequent applicable increases, but only with respect to benefits payable for months after [May] *November* of that year.

(B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply in the case of monthly benefits under this title for months after [May] *November* of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after [May] *November* of such calendar year.

(C)(i) Whenever the level of the Consumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in paragraph (1)(A)(ii)) or, if later, the most recent cost-of-living computation quarter, the Secretary shall (within 5 days after such publication) report the amount of such excess to the House Committee on Ways and Means and the Senate Committee on Finance.

(ii) Whenever the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance of such determination within 30 days after the close of such quarter,[281] indicating the amount of the benefit increase to be provided, his estimate of the extent to which the cost of such increase would be met by an increase in the contribution and benefit base under section 230 and the estimated amount of the increase in such base, the actuarial estimates of the effect of such increase, and the actuarial assumptions and methodology used in preparing such estimates.

(iii) The Secretary shall determine and promulgate the OASDI fund ratio and the SSA wage index for each calendar year before November 1 of that year, based upon the most recent data then

available, and shall include a statement of such fund ratio and wage index (and of the effect such ratio and the level of such index may have upon benefit increases under this subsection) in any notification made under clause (ii) and any determination published under subparagraph (D).

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter a determination that a benefit increase is resultantly required and the percentage thereof. He shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection based on the dollar amount specified in subparagraph (C)(i) of subsection (a)(1) (with such revised primary insurance amounts constituting the increased amounts determined for purposes of such subparagraph (C)(i) under this subsection), or specified in subsection (a)(3) as in effect prior to 1979, and (ii) a revision of the range of maximum family benefits which correspond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 203(a) except for paragraph (3)(B) thereof (or paragraph (2) thereof as in effect prior to 1979)). Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).

(3) As used in this subsection, the term "general benefit increase under this title" means an increase (other than an increase under this subsection) in all primary insurance amounts on which monthly insurance benefits under this title are based.

(4) This subsection as in effect in December 1978, as modified by the application of the amendments made by sections 111(b)(2) and 112 of the Social Security Act Amendments of 1983, shall continue to apply to subsection (a) and (d), as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4)(B) of that subsection (but the application of this subsection in such cases shall be modified by the application of subdivision (I) in the last sentence of paragraph (4) of that subsection)), "except that for this purpose, in applying paragraphs (2)(A)(ii), (2)(D)(iv), and (2)(D)(v) of this subsection as in effect in December 1978, the phrase "increased to the next higher multiple of $0.10" shall be deemed to read "decreased to the next lower multiple of $0.10". For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2)(D) of this subsection as then in effect.

(5)(A) If—

(i) with respect to any calendar year the "applicable increase percentage" was determined under caluse (ii) of paragraph (1)(C) rather than under clause (i) of such paragraph, and the in-

crease becoming effective under paragraph (2) in such year was accordingly determined on the basis of the wage increase percentage rather than the CPI increase percentage (or there was no such increase becoming effective under paragraph (2) in that year because the wage increase percentage was less than 3 percent), and

(ii) for any subsequent calendar year in which an increase under paragraph (2) becomes effective the OASDI fund ratio is greater than 32.0 percent,

the each of the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii), as increased under paragraph (2) effective with the month of December in such subsequent calendar year, shall be further increased (effective with such month) by an additional percentage, which shall be determined under subparagraph (B) and shall apply as provided in subparagraph (C).

(B) The applicable additional percentage by which the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii) are to be further increased under subparagraph (A) in the subsequent calendar year involved shall be the difference between—

(i) the compounded percentage benefit increases that would have been paid if all increases under paragraph (2) had been made on the basis of the CPI increase percentage, and

(ii) the compounded percentage benefit increases that were actually paid under paragraph (2) and this paragraph,

with such increases being measured—

(iii) in the case of amounts described in subdivision (I) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which the individual first became entitled to monthly benefits described in such subdivision and ending with such subsequent calendar year, and

(iv) in the case of amounts described in subdivisions (II) and (III) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which the individual whose primary insurance amount is increased under such subdivision (II) initially became eligible for an old-age or disability insurance benefit, or died before becoming so eligible, and ending with such subsequent calendar year;

except that if the Secretary determines in any case that the application (in accordance with subparagraph (C)) of the additional percentage as computed under the preceding provisions of this subparagraph would cause the OASDI fund ratio to fall below 32.0 percent in the calendar year immediately following such subsequent year, he shall reduce such applicable additional percentage to the extent necessary to ensure that the OASDI fund ratio will remain at or above 32.0 percent through the end of such following year.

(C) Any applicable additional percentage increase in an amount described in subdivision (I), (II), or (III) of paragraph (2)(A)(ii), made under this paragraph in any calendar year, shall thereafter be treated for all the purposes of this Act as a part of the increase made in such amount under paragraph (2) for that year.

OTHER DEFINITIONS

SEC. 216. For the purposes of this title—

Spouse; Surviving Spouse

(a)(1) The term "spouse" means a wife as defined in subsection (b) or a husband as defined in subsection (f).

(2) The term "surviving spouse" means a widow as defined in subsection (c) or a widower as defined in subsection (g).

* * * * * * *

[DIVORCED WIVES; DIVORCE] DIVORCED SPOUSES; DIVORCE

(d)(1) the term "divorced wife" means a woman divorced from an individual, but only if she had been married to such individual for a period of 10 [291] years immediately before the date the divorce became effective.

(2) the term "surviving divorced wife" means a woman divorced from an individual who has died, but only if she had been married to the individual for a period of 10 [291] years immediately before the date the divorce became effective.

(3) The term "surviving divorced mother" means a woman divorced from an individual who has died, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18, or (D) she was married to him at the time both of them legally adopted a child under the age of 18.

(4) The term "divorced husband" means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

(5) The term "surviving divorced husband" means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective.

[(4)] *(6)* The terms "divorce" and "divorced" refer to a divorce a vinculo matrimonii.

* * * * * * *

HUSBAND

(f) The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsections (c) (f) or (h) of section 202, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or (C) he was entitled to, or upon application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 2 of the Railroad Retirement

Act of 1974, as amended. For purposes of clause (2), a husband shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of his marriage to her.

Widower

(g) The term "widower" (except when used in the first sentence of section 202(i)) means the surviving husband of an individual, but only if (1) he is the father of her son of daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than nine months immediately prior to the day on which she died, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (c), (f) or (h) of section 202, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or (C) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 2 of the Railroad Retirement Act of 1974, as amended.

DETERMINATION OF FAMILY STATUS

(h)(1)(A) * * *

* * * * * * *

(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2), shall nevertheless be deemed to be the child of such insured individual if:

(A) in the case of an insured individual entitled to old-age insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his *or her* son or daughter,

(II) has been decreed by a court to be the *mother or* father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his *or her* son or daughter,

and such acknowledgement, court decree, or court order was made not less than one year before such insured individual became entitled to old-age insurance benefits or attained age 65, whichever is earlier; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the *mother or* father of the applicant and was living with or contributing to the support of the applicant at the time [such insured individual became entitled to benefits or attained age 65, whichever first occurred;] *such applicant's application for benefits was filed;*

(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he *or she* was entitled to old-age insurance benefits—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his *or her* son or daughter,

(II) has been decreed by a court to be the *mother or* father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his *or her* son or daughter,

and such acknowledgement, court decree, or court order was made before such insured individual's most recent period of disability began; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the *mother or* father of the applicant and was living with or contributing to the support of that applicant at the time [such period of disability began] *such applicant's application for benefits was filed*;

(C) in the case of a deceased individual—

(i) such insured individual—

(I) had acknowledged in writing that the applicant is his *or her* son or daughter,

(II) had been decreed by a court to be the *mother or* father of the applicant, or

(III) had been ordered by a court to contribute to the support of the applicant because the applicant was his *or her* son or daughter,

and such acknowledgement, court decree, or court order was made before the death of such insured individual, or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to have been the *mother or* father of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died.

For purposes of [subparagraph (A)(i)] *subparagraphs (A)(i) and (B)(i),* an acknowledgement, court decree, or court order shall be deemed to have occurred on the first day of the month in which it actually occurred.

* * * * * * *

DISABILITY; PERIOD OF DISABILITY

(i)(1)* * *

* * * * * * *

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such quarter; and

(B)(i) he had not less that 20 quarters of coverage during the 40-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31, less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage[;], or

(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of clause (ii), had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with such quarter are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;

except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in paragraph (1)). For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage.

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BENEFITS IN CASE OF VETERANS

SEC. 217. (a)(1) * * *

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(f)(1) In any case where a World War II veteran (as defined in subsection (d)(2)) or a veteran (as defined in subsection (e)(4)) has died or shall hereafter die, and [his widow] *his or her surviving spouse* or child is entitled under subchapter III of chapter 83 of title 5, United States Code, to an annuity in the computation of which his *or her* active military or naval service was included, clause (B) of subsection (a)(1) or clause (B) of subsection (e)(1) shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 202 which is based on his *or her* wages and self-employment income; except that no such [widow] *surviving spouse* or child shall be entitled under section 202 to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such widow or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such [widow] *surviving spouse* or child under such subchapter III on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a [widow] *surviving spouse* waives *his or* her right to receive such annuity such waiver shall constitute a waiver on *his or* her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his *or her* care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the [widow] *surviving spouse* and all children, or, if there is no [widow] *surviving spouse*, all the children, waive their rights to receive annuities under subchapter III of chapter 83 of title 5, United States Code, based on such veteran's military or civilian service.

[(g)(1) In September of 1965, 1970, and 1975, and in October 1980 and in every fifth October thereafter up to and including October 2010, the Secretary shall determine the amount which, if paid in equal installments at the beginning of each fiscal year in the period beginning—

[(A) with July 1, 1965, in the case of the first such determination, and

[(B) with the beginning of the first fiscal year commencing after the determination in the case of all other such determinations.

and ending with the close of September 30, 2015, would accumulate, with interest compounded annually, to an amount equal to the amount needed to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of September 30, 2015, as he estimates they would otherwise be in at the close of that date if section 210 of this Act as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted. The rate of interest to be used in determining such amount shall be the rate determined under section 201(d) for public-debt obligations which were or could have been issued for purchase by the Trust Funds in the June preceding the September in which the determinations in 1965, 1970, and 1975 are made and in the September preceding the October in which all other determinations are made.

[(2) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund—

[(A) for the fiscal year ending June 30, 1966, an amount equal to the amount determined under paragraph (1) September 1965, and

[(B) for each fiscal year in the period beginning with July 1, 1966, and ending with the close of September 30, 2015, an amount equal to the annual installment for such fiscal year under the most recent determination under paragraph (1) which precedes such fiscal year.

[(3) For the fiscal year ending September 30, 2016, there is authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund such sums as the Secretary determines would place the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position in which they would have been at the close of September 30, 2015, if section 210 of this Act as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted.

[(4) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund annually, as benefits under this title and part A of title XVIII are paid after September 30, 2015, such sums as the Secretary determines to be necessary to meet the additional costs, resulting from subsections (a), (b), and (e), of such benefits (including lump-sum death payments).]

APPROPRIATION TO TRUST FUNDS

(g)(1) Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary shall determine the amount equal to the excess of—

(A) the actuaral present value as of such date of enactment of the past and future benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under this title and title XVIII, together with associated administrative costs, resulting from the operation of this section (other than this subsection) and section 210 of this Act as in effect before the enactment of the Social Security Act Amendments of 1950, over

(B) any amounts previously transferred from the general fund of the Treasury to such Trust Funds pursuant to the provisions of this subsection as in effect immediately before the date of the enactment of the Social Security Act Amendments of 1983.

Such actuarial present value shall be based on the relevant actuarial assumptions set forth in the report of the Board of Trustees of each such Trust Fund for 1983 under sections 201(c) and 1817(b). Within thirty days after the date of the enactment of the Social Security Act Amendments of 1983, the Secretary of the Treasury shall transfer the amount determined under this paragraph with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated.

(2) The Secretary shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Secretary from data which becomes available to him after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this title or title XVIII and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 201(c) or 1817(b). Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general

fund of the Treasury, such amounts as the Secretary of the Treasury determines necessary to compensate for such revision.

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VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

PURPOSE OF AGREEMENT

SEC. 218. (a)(1) * * *

* * * * * * *

TERMINATION OF AGREEMENT

[(g)(1) Upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at the end of a calendar year specified in the notice, its agreement with the Secretary either—

[(A) in its entirety, but only if the agreement has been in effect from its effective date for not less than five years prior to the receipt of such notice; or

[(B) with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such coverage group for not less than five years prior to the receipt of such notice.

[(2) If the Secretary, after reasonable notice and opportunity for hearing to a State with whom he has entered into an agreement pursuant to this section, finds that the State has failed or is no longer legally able to comply substantially with any provision of such agreement or of this section, he shall notify such State that the agreement will be terminated in its entirety, or with respect to any one or more coverage groups designated by him, at such time, not later than two years from the date of such notice, as he deems appropriate, unless prior to such time he finds that there no longer is any such failure or that the cause for such legal inability has been removed.

[(3) If any agreement entered into under this section is terminated in its entirety, the Secretary and the State may not again enter into an agreement pursuant to this section. If any such agreement is terminated with respect to any coverage group, the Secretary and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such coverage group.]

DURATION OF AGREEMENT

(g) No agreement under this section may be terminated, either in its entirety or with respect to any coverage group, on or after the date of the enactment of the Social Security Act Amendments of 1983.

* * * * * * *

FAILURE TO MAKE PAYMENTS

(j)*(1)* In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at **[**the rate of 6 per centum per annum**]** *the applicable rate determined in accordance with paragraph (2)* from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this Act. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this Act. Amounts equal to the amounts deducted under this subsection are hereby appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h)(1).

(2) For purposes of paragraph (1), the rate of interest applicable to late payments outstanding during the six-month period beginning on January 1, 1984, shall be 9.0 percent per annum. The rate of interest applicable to late payments outstanding during the six-month period beginning on July 1, 1984, and subsequent six-month periods beginning on January 1 or July 1 thereafter, shall be determined by the Secretary of the Treasury not later than 15 days after the end of the base period described in the following sentence and shall be an annual rate equal to the average (rounded to the nearest full percent, or the next higher percent if it is a multiple of 0.5 percent but not of 1.0 percent) of the annual rates of interest applicable to the special obligations issued to the Trust Funds (in accordance with section 201(d)) in each month of such base period. The "base period" for the rate effective on January 1 of a year is the six-month period ending on the immediately preceding September 30, and the base period for the rate effective on July 1 of a year is the six-month period ending on the immediately preceding March 31.

* * * * * * *

CERTAIN EMPLOYEES OF THE STATE OF UTAH

(o) Notwithstanding the provisions of subsection (d), the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c)(4) so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December

31, 1950. *Coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group.*

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REHABILITATION SERVICES

REFERRAL FOR REHABILITATION SERVICES

Sec. 222. [42 U.S.C. 422] (a) It is hereby declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

DEDUCTIONS ON ACCOUNT OF REFUSAL TO ACCEPT REHABILITATION SERVICES

(b)(1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 202 and 223 for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow, widower [or surviving divorced wife], *surviving divorced wife, or surviving divorced husband* who has not attained age 60, or an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's *or father's* insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's *or father's* insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's *or father's* insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is im-

posed under paragraph (1). If both this paragraph and paragraph (3) are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, divorced wife, husband, *divorced husband,* or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1).

(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d)).

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DISABILITY INSURANCE BENEFIT PAYMENTS

DISABILITY INSURANCE BENEFITS;

SEC. 223. (a)(1) * * *

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DEFINITIONS OF INSURED STATUS AND WAITING PERIOD

(c) For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such month, and

(B) (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such month occurred, or

(ii) if such month ends before the quarter in which he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage**[;]**, *or*

(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of section 216(i)(3)(B)(ii), had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with the quarter in

which such month occurs are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;

except that the provisions of subpararaph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in section 216(i)(1)). For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage.

(2) The term "waiting period" means, in the case of any application for disability insurance benefits, the earliest period of five consecutive calendar months—

(A) throughout which the individual with respect to whom such application is filed has been under a disability, and

(B)(i) which begins not earlier than with the first day of the seventeenth month before the month in which such application is filed if such individual is insured for disability insurance benefits in such seventeenth month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such seventeenth month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957.

DEFINITION OF DISABILITY

(d)(1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, [or widower] for purposes of section 202(e) or (f)) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work.

For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, [or widower] shall not be determined to be under a disability (for purposes of section 202 (e) or (f)) unless his or her physical or mental impairment or impairments are of a level or severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

* * * * * * *

SUSPENSION OF BENEFITS BASED ON DISABILITY

SEC. 225. (a) If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 223, or that a child who has attained the age of eighteen and is entitled to benefits under section 202(d), or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 202(e), or that a widower *or surviving divorced husband* who has not attained age 60 and is entitled to benefits under section 202(f), may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 202(d), 202(e), 202(f), or 223 until it is determined (as provided in section 221) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 221(b), the Secretary shall promptly notify the appropriate State of his action under this subsection and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this subsection, the term "disability" has the meaning assigned to such term in section 223(d). Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 202, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this subsection shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d)).

(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.

ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS

SEC. 226. (a) * * *

* * * * * * *

(e)(1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(A) the term "age 60" in sections 202(e)(1)(B)(ii), 202(e)(5), 202(f)(1)(B)(ii), and 202[(f)(6)] *(f)(5)* shall be deemed to read "age 65"; and

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 202(e)(1) and the phrase "before he attained age 60" in the matter following subparagraph (F) of section 202(f)(1) shall each be deemed to read "based on a disability".

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

[(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.]

(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow aged 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower aged 50 or older who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits be

deemed to have filed for such widow's or widower's insurance benefits.

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TRANSITIONAL INSURED STATUS

SEC. 227. (a) In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 214(a), the 6 quarters of coverage referred to in paragraph (1) of section 214(a) shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 202(a), and of [his wife] *the spouse* to benefits under section 202(b), but, in the case of such [wife,] *spouse,* only if *he or* she attains the age of 72 before 1969 and only with respect to [wife's] *spouse's* insurance benefits under section 202(b) *or section 202(c)* for and after the month in which *he or* she attains such age. For each month before the month in which any such individual meets the requirements of section 214(a), the amount of [his] *the* old-age insurance benefit shall, notwithstanding the provisions of section 202(a), be the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i) and the amount of the [wife's] *spouse's* insurance benefit of [his wife] *the spouse* shall, notwithstanding the provisions of section 202(b) *or section 202(c),* be the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i).

(b) In the case of any individual who has died, who does not meet the requirements of section 214(a), and whose [widow] *surviving spouse* attains age 72 before 1969, the 6 quarters of coverge referred to in paragraph (3) of section 214(a) and in paragraph (1) thereof shall, for purposes of determining [her] *the* entitlement to [widow] *surviving spouse* insurance benefits under section 202(e) *or section 202(f),* instead be—

(1) 3 quarters of coverage if such [widow] *surviving spouse* attains the age of 72 in or before 1966,

(2) 4 quarters of coverage if such [widow] *surviving spouse* attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such [widow] *surviving spouse* attains the age of 72 in 1968.

The amount of [her widow's] *the surviving spouse's* insurance benefit for each month shall, notwithstanding the provisions of section 202(e) *or section 202(f)* (and section 202(m)), be the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i).

(c) In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 202(a) by reason of the application of subsection (a) of this section, who dies, and whose [widow] *surviving spouse* attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such [widow] *surviving spouse* to [widow's] *surviving spouse's* insurance benefits under section 202(e) *or section 202(f).*

BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS

ELIGIBILITY

SEC. 228. (a) Every individual who—

(1) has attained the age of 72,

(2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he *or she* attained such age,

(3) is a resident of the United States (as defined in subsection (e)), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 210(i)) continuously during the 5 years immediately preceding the month in which he *or she* files application under this section, and

(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he *or she* becomes so entitled to such benefits and ending with the month preceding the month in which he *or she* dies. No application under this section which is filed by an individual more than 3 months before the first month in which he *or she* meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

BENEFIT AMOUNT

(b)[(1) Except as provided in paragraph (2), the] *The* benefit amount to which an individual is entitled under this section for any month shall be the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i).

[(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i) and the amount of the wife's benefit for such month shall be the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i).]

REDUCTION FOR GOVERNMENTAL PENSION SYSTEM BENEFITS

(c)(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he *or she* is eligible for such month.

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over [(B) the larger of $32.20 or the amount most recently established in lieu thereof under section

215(i)] *(B) the benefit amount as determined without regard to this subsection.*

[(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

[(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i), and

[(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i).]

(3) In the case of a husband or wife both of whom are entitled to benefits under this section for any month, the benefit amount of each spouse, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other spouse is eligible for such month, over (B) the benefit amount of such other spouse as determined after any reduction under paragraph (1).

(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

(A) such individual shall be deemed to have filed application for such benefits,

(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

(C) to the extent that entitlement depends on such individual or his *or her* spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

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BENEFITS IN CASE OF MEMBERS OF THE UNIFORMED SERVICES

SEC. 229. (a) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this title on the basis of the wages and self-employment income of any individual, and for purposes of section 216(i)(3), such individual, if he was paid wages for service as a member of a uniformed service (as defined in section 210(m) which was included in the term "employment" as defined in section 210(a) as a result of the provisions of section 210(l), shall be deemed to have been paid—

(1) in each calendar quarter occurring after 1956 and before 1978 in which he was paid such wages, additional wages of $300, and

(2) in each calendar year occurring after 1977 in which he was paid such wages, additional wages of $100 for each $300 of such wages, up to a maximum of $1,200 of additional wages for any calendar year.

[(b) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund annually, as benefits under this title and part A of title XVIII are paid after December 1967, such sums as the Secretary determines to be necessary to meet (1) the additional costs, resulting from subsection (a), of such benefits (including lump-sum death payments), (2) the additional administrative expenses resulting therefrom, and (3) any loss in interest to such trust funds resulting from the payment of such amounts. Such additional costs shall be determined after any increases in such benefits arising from the application of section 217 have been made.]

(b) There are authorized to be appropriated to each of the Trust Funds, consisting of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for transfer on July 1 of each calendar year to such Trust Fund from amounts in the general fund in the Treasury not otherwise appropriated, an amount equal to the total of the additional amounts which would be appropriated to such Trust Fund for the fiscal year ending September 30 of such calendar year under section 201 or 1817 of this Act if the amounts of the additional wages deemed to have been paid for such calendar year by reason of subsection (a) constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954. Amounts authorized to be appropriated under this subsection for transfer on July 1 of each calendar year shall be determined on the basis of estimates of the Secretary of the wages deemed to be paid for such calendar year under subsection (a); and proper adjustments shall be made in amounts authorized to be appropriated for subsequent transfer to the extent prior estimates were in excess of or were less than such wages so deemed to be paid.

ADJUSTMENT OF THE CONTRIBUTION AND BENEFIT BASE

SEC. 230. (a) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the [June] *December* following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) or (c) which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

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INTERNATIONAL AGREEMENTS

PURPOSE OF AGREEMENT

SEC. 233. (a) * * *

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REPORTS TO CONGRESS; EFFECTIVE DATE OF AGREEMENTS

(e)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress together with a report on the estimated number of individuals who will be affected by the agreement and the effect of the agreement on the estimated income and expenditures of the programs established by this Act.

(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of the period (following the date on which the agreement is transmitted in accordance with paragraph (1)) [during which each House of the Congress has been in session on each of 90 days]; *during which at least one House of the Congress has been in session on each of 60 days* except that such agreement shall not become effective if, during such period; either House of Congress adopts a resolution of disapproval of the agreement.

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TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

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SEC. 303. (a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with

the provisions of section 1606(b) of the Federal Unemployment Tax Act, immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 904; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 1606(b) of the Federal Unemployment Tax Act: *Provided,* That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further,* That the amounts specified by section 903(c)(2) may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices; [and] *Provided further, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor; and*

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TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES.

PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

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STATE PLANS FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN

SEC. 402. (a) A State plan for aid and services to needy families with children must (1) * * *

* * * * * * *

(36) provide, at the option of the State, that in making the determination for any month under paragraph (7) the State agency [shall not include as income any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) (A) is based on need for such assistance, and (B)] *shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such*

support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which if (i) assistance furnished in kind by a private nonprofit agency, or (ii) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.

PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

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CONSENT BY THE UNITED STATES TO GARNISHMENT AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS

SEC. 459. (a) Notwithstanding any other provision of law *(including section 207),* effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

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TITLE VII—ADMINISTRATION

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RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE BALANCES IN THE SOCIAL SECURITY TRUST FUNDS

SEC. 709. If the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund determines at any time that the balance of such Trust Fund may become inadequate to assure the timely payment of benefits from such Trust Fund, the Board shall promptly submit to each House of the Congress a report setting forth its recommendations for statutory adjustments affecting the receipts and disbursements to and from such Trust Fund necessary to remedy such inadequacy, with due regard to the economic conditions which created such inadequacy and the amount of time necessary to alleviate such inadequacy in a prudent manner.

BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

SEC. 710. The disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund shall be treated as a *separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Funds, including the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954, shall be set forth separately in such budgets.*

BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund and the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(b) The disbursements of the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Fund shall be set forth separately in such budgets.

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

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PART B—PEER REVIEW OF THE UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

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CONTRACTS WITH UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS

SEC. 1153. (a)(1) * * *

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(b)(1) The Secretary shall enter into a contract with a utilization and quality control peer review organization for each area established under subsection (a) if a qualified organization is available in such area and such organization and the Secretary have negotiated a proposed contract which the Secretary determines will be carried out by such organization in a manner consistent with the efficient and effective administration of this part. If more than one such qualified organization meets the requirements of the preceding sentence, priority shall be given to any such organization which is described in section 1152(1)(A).

(2)(A) During the first twelve months in which the Secretary is entering into contracts under this section, the Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), an entity which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part.

(B) If, after the expiration of the twelve-month period referred to in subparagraph (A), the Secretary determines that there is no other entity available for an area with which the Secretary can enter into a contract under this part, the Secretary may then enter into a contract under this part with an entity described in subparagraph (A) for such area if such entity otherwise meets the requirements of this part.

(C) The twelve-month period referred to in subparagraph (A) shall be deemed to begin not later than October 1983.

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

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PART A—DETERMINATION OF BENEFITS

ELIGIBILITY FOR AND AMOUNT OF BENEFITS

Definition of Eligible Individual

SEC. 1611. (a)(1) * * *

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Limitation on Eligibility of Certain Individuals

(e)(1)(A) Except as provided in [subparagraph (B) and (C)] *subparagraphs (B), (C), and (D),* no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he in an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and

(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(C) As used in subparagraph (A), the term "public institution" does not include a publicly operated community residence which serves no more than 16 residents.

(D) A person may be an eligible individual or eligible spouse for purposes of this title with respect to any month throughout which he is a resident of a public emergency shelter for the homeless (as defined in regulations which shall be prescribed by the Secretary); except that no person shall be an eligible individual or eligible spouse by reason of this subparagraph for more than three months in any 12-month period.

INCOME

MEANING OF INCOME

Sec. 1612. * * * (a)

EXCLUSIONS FROM INCOME

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(13) **[**any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) (A) is based on need for such assistance, and (B)**]** *any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which* is (i) assistance furnished in kind by a private nonprofit agency, or (ii) assistance furnished by a supplier of home heating oil or gas, by an entity providing

home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.

COST-OF-LIVING ADJUSTMENTS IN BENEFITS

SEC. 1617. (a) Whenever benefit amounts under title II are increased by any percentage effective with any month as a result of a determination made under section 215(i)—

(1) each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under this section, shall be increased by the amount (if any) by which—

(A) the amount which would have been in effect for such month under such subsection but for the rounding of such amount pursuant to paragraph (2), exceeds

(B) the amount in effect for such month under such subsection; and

(2) the amount obtained under paragraph (1) with respect to each subsection shall be further increased by the same percentage by which benefit amounts under title II are increased for such month (and rounded, when not a multiple of $12 to the next lower multiple of $12), effective with respect to benefits for months after such month.

(b) The new dollar amounts to be in effect under section 1611 of this title and under section 211 of Public Law 93-66 by reason of *subsection (a) of* this section shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of the determination involved.

(c) Effective July 1, 1983—

(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1611 (and the dollar amount in effect under subsection (a)(1)(A) of Public Law 93-66, as previously so increased, shall be increased by $10) as previously increased under this section, shall be increased by $20; and

(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1611, as previously increased under this section, shall be increased by $30.

OPERATION OF STATE SUPPLEMENTATION PROGRAMS

SEC. 1618. (a) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), on or after June 30, 1977, to be eligible for payments pursuant to title XIX with respect to expenditures for any calendar quarter which begins—

(1) after June 30, 1977, or, if later,

(2) after the calendar quarter in which it first makes such supplementary payments,

such State must have in effect and agreement with the Secretary whereby the State will—

(3) continue to make such supplementary payments, and

(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617 are not less than its expenditures for such payments in the preceding twelve-month period.

(c) Any State which satisfies the requirements of this section solely by reason of subsection (b) for a particular month or months in any 12-month period (described in such subsection) ending on or after June 30, 1982, may elect, with respect to any month in any subsequent 12-month period (so described), to apply subsection (a)(4) as though the reference to December 1976 in such subsection were a reference to the month of December which occurred in the 12-month period immediately preceding such subsequent period.

(c) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for any portion of the period July 1, 1980 through June 30, 1981, if the State's expenditures for such payments in that twelve-month period were not less than its expenditures for payments for the period July 1, 1976 through June 30, 1977 (or, if the State made no supplementary payments in the period July 1, 1976 through June 30, 1977, the expenditures for the first twelve-month period extending from July 1 through June 30 in which the State made such payments).

(d)(1) For any particular month after March 1983, a State which is not treated as meeting the requirements imposed by paragraph (4) of subsection (a) by reason of subsection (b) shall be treated as meeting such requirements if and only if—

(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for that particular month,

is not less than—

(B) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for March 1983, increased by the amount of all cost-of-living adjustments under section 1617 (and any other benefit increases under this title) which have occurred after March 1983 and before that particular month.

(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the in-

crease under section 1617(c) shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 215(i)(1)(B)) if section 111 of the Social Security Act Amendments of 1983 had not been enacted.

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

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PART A—HOSPITAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

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CONDITIONS OF AND LIMITATIONS ON PAYMENT FOR SERVICES

REQUIREMENT OF REQUESTS AND CERTIFICATIONS

SEC. 1814. (a) * * *

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PAYMENT FOR SERVICES OF A PHYSICIAN RENDERED IN A TEACHING HOSPITAL

(g) For purposes of services for which the reasonable cost thereof is determined under section 1861(b)(1)(D) *(or would be if section 1886 did not apply)* payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

(1) such hospital has an agreement with the Secretary under section 1866, and

(2) the Secretary has received written assurances that (A) such payment will be used by such fund solely for the improvement of care of hospital patients or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged, provision will be made for return of any moneys incorrectly collected).

PAYMENT FOR CERTAIN HOSPITAL SERVICES PROVIDED IN VETERANS' ADMINISTRATION HOSPITALS

(h)(1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital, or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though the hospital is a Federal provider of services if (A) the individual was not entitled to have the services furnished to him free of charge by the hospital, (B) the individual was admitted to the hospital in the reasonable belief on the part of the admitting authorities that the individual was a person who was entitled to have the services furnished to him free of charge, (C) the authorities of the hospital, in admitting the individual, and the individual, acted in good faith, and (D) the services were furnished during a period ending with the close of the day on which the authorities operating the hospital first became aware of the fact that the individual was not entitled to have the services furnished to him by the hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove the individual from the hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) **[**the reasonable costs for such services**]** *the amount that would be payable for such services under subsection (b) and section 1886* (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by an other private person acting on behalf of such individual).

ELIMINATION OF LESSER-OF-COST-OR-CHARGES PROVISION

[(d)**]** *(j)*(1) The lesser-of-cost-or-charges provisions (described in paragraph (2)) will not apply in the case of services provided by a class of provider of services if the Secretary determines and certifies to Congress that the failure of such provisions to apply to the services provided by that class of providers will not result in any increase in the amount of payments made for those services under this title. Such change will take effect with respect to services furnished, or cost reporting periods of providers, on or after such date as the Secretary shall provide in the certification. Such change for a class of provider shall be discontinued if the Secretary determines and notifies Congress that such change has resulted in an increase in the amount of payments made under this title for services provided by that class of provider.

(2) The lesser-of-cost-or-charges provisions referred to in paragraph (1) are as follows:

(A) Clause (B) of paragraph (1) and paragraph (2) of section 1814(b).

(B) So much of subparagraph (A) of section 1833(a)(2) as provides for payment other than of the reasonable cost of such services, as determined under section 1861(v).

(C) Subclause (II) of clause (i) and clause (ii) of section 1833(a)(2)(B).

FEDERAL HOSPITAL INSURANCE TRUST FUND

SEC. 1817. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Hospital Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1966, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

The amounts appropriated by the preceding sentence shall be transferred [from time to time] *monthly on the first day of each calendar month* from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, [paid to or deposited into the Treasury]; *to be paid to or deposited into the Treasury during such month* and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence. *All amounts transferred to the Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of the Trust Fund; and the Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of the Trust Fund in the same month under subsection (c).*

* * * * * * *

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the

Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Administrator of the Health Care Financing Administration shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost-estimates used are reasonable. The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. [Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price.] *Such investments may be made only in interest-bearing public-debt obligations of the United States which are issued exclusively for purchase by the Trust Funds under title 31 of the United States Code.* The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust fund. [Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield.] *Such obligations shall be redeemable at par plus accrued interest at any time, and shall bear interest in any month (including the month of issue) at a rate equivalent to either (1) the average market yield (determined by the Managing Trustee on the basis of market quotations as of the end of each business day of the preceding month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt (other than "flower bonds") which are not due or callable until after the expiration of 4 years from the end of such preceding month, or (2) the average market yield (so determined) on all such obligations which are due or callable 4 years or less from the end of such preceding month, whichever average market yield (with respect to the month involved) is larger; except that where such equivalent interest rate is not a multiple of one-eighth of 1 percent, the rate of interest on the obligations involved shall be the multiple of one-eighth of 1 percent nearest such equivalent rate.* [The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.] *For purposes of the preceding sentence, the term "flower bond" means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representative of the estate of a deceased individual, be redeemed in advance of maturity and at par (face) value plus accrued interest to the date of payment if (i) it was owned by such deceased individual at the time of his death, (ii) it is part of the estate of such deceased individual, and (iii) such representative authorizes the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.*

[(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.]

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f)(1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(b) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages paid after December 31, 1965. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(g) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred whcih the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1870(b) of this Act. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1870(b) of this Act.

(h) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g)(1).

(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the united States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the proceeding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditous means of transportation appropriate to such person's health condition, as specified in such regulations.

(j)(1) If at any time prior to January [1983] *1, 1988* the Managing Trustee determines that borrowing authorized under this subsection is appropriate in order to best meet the need for financing the benefit payments from the Federal Hospital Insurance Trust Fund, the Managing Trustee may borrow such amounts as he determines to be appropriate from either the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund for transfer to and deposit in the Federal Hospital Insurance Trust Fund.

(2) In any case where a loan has been made to the Federal Hospital Insurance Trust Fund under paragraph (1), there shall be transferred from time to time, from such Trust Fund to the lending Trust Fund, interest with respect to the unrepaid balance of such loan at a rate equal to the rate which the lending Trust Fund would earn on the amount involved if the loan were an investment under subsection (c).

(3) If in any month after a loan has been made to the Federal Hospital Insurance Trust Fund under paragraph (1), the Managing Trustee determines that the assets of such Trust Fund are sufficient to permit repayment of all or part of any loans made to such Fund under paragraph (1), he shall make such repayments as he determines to be appropriate*; but the full amount of all such loans (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.*

* * * * * * *

HOSPITAL INSURANCE BENEFITS FOR UNINSURED INDIVIDUALS NOT OTHERWISE ELIGIBLE

Sec. 1818. (a) * * *

* * * * * * *

(d)(1) The monthly premium of each individual for each month in his coverage period before July 1974 shall be $33.

(2) The Secretary shall, [during the last calendar quarter of each year, beginning in 1973,] *during the next to last calendar quarter of each year* determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in [the 12-month period commencing July 1 of the next year] *the following calendar year.* Such amount shall be equal to $33, multiplied by the ratio of (A) the inpatient hospital deductible [for such next year] *for that following calendar year,* as promulgated under section 1813(b)(2), to (B) such deductible promulgated for 1973. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or if midway between multiples of $1 to the next higher multiple of $1.

* * * * * * *

Part B—Supplementary Medical Insurance Benefits for the Aged and Disabled

* * * * * * *

PROCEDURE FOR PAYMENT OF CLAIMS OF PROVIDERS OF SERVICES

Sec. 1835. (a) * * *

* * * * * * *

(e) For purposes of services (1) which are inpatient hospital services by reason of paragraph (7) of section 1861(b) or for which entitlement exists by reason of clause (II) of section 1832(a)(2)(B)(i), and

(2) for which the reasonable cost thereof is determined under section 1861(v)(1)(D) *(or would be if section 1886 did not apply)* payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

(1) such hospital has an agreement with the Secretary under section 1866, and

(2) the Secretary has received written assurances that such payment will be used by such fund solely for the improvement of care to patients in such hospital or for educational or charitable purposes and (B) the individuals who were furnished such services or any other person will not be charged for such services (or if charged provision will be made for return for any moneys incorrectly collected).

* * * * * * *

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

* * * * * * *

AMOUNTS OF PREMIUMS

SEC. 1839. (a) * * *

* * * * * * *

(c)(1) The Secretary shall, during [December of 1972 and of each year thereafter] *September of each year,* determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable [for the 12-month period commencing July 1 in the succeeding year] *for months in the following calendar year.* Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such [12-month period] *calendar year* with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such [12-month period] *calendar year.* In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

(2) The monthly premium of each individual enrolled under this part for each month after June 1973 shall, except as provided in subsections (d) and (g), be the amount determined under paragraph (3).

(3) The Secretary shall, during [December of 1972 and of each year thereafter] *September of each year,* determine and promulgate the monthly premium applicable for the individuals enrolled under this part [for the 12-month period commencing July 1 in the succeeding year.] The monthly premium shall (except as otherwise provided in subsection (g)) be equal to the smaller of—

(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that [12-month period;] *calendar year,* or

(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on [May 1 of the year] *November 1 of the year before the year* of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals on the following [May] *November* 1.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

(4) The Secretary shall also, during [December of 1972 and of each year thereafter] *September of each year,* determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable [for the 12-month period commencing July 1 in the succeeding year] *for months in the following calendar year.* Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such [12-month period] *calendar year* with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be incurred in the Federal Supplementary Medical Insurance Trust Fund for such [12-month period] *calendar year* with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

* * * * * * *

(g)(1) Notwithstanding the provisions of subsection (c), the monthly premium for each individual enrolled under this part for each month after [June] *December* 1983 and prior to [July 1985] *January 1986* shall be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (c)(1) and applicable to such month.

(2) Any increases in premium amounts taking effect prior to [July 1985] *January 1986* by reason of paragraph (1) shall be taken into account for purposes of determining increases thereafter under subsection (c)(3).

* * * * * * *

Part B—Supplementary Medical Insurance Benefits for the Aged and Disabled

* * * * * * *

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

SEC. 1841 (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Supplementary Medical Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex offico. The Secretary of the Treasury shall be in the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Administrator of the Health Care Financing Administration shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years.

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current, withdrawals. [Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price.] *Such investments may be made only in interest-bearing public-debt obligations of the United States which are issued exclusively for purchase by the Trust Funds under title 31 of the United States Code.* The purposes for which obligations of the United States may be issued under the Second Liberty

Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. [Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield.] *Such obligations shall be redeemable at par plus accrued interest at any time, and shall bear interest in any month (including the month of issue) at a rate equivalent to either (1) the average market yield (determined by the Managing Trustee on the basis of market quotations as of the end of each business day of the preceding month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt (other than "flower bonds") which are not due or callable until after the expiration of 4 years from the end of such preceding month, or (2) the average market yield (so determined) on all such obligations which are due or callable 4 years or less from the end of such preceding month, whichever average market yield (with respect to the month involved) is larger; except that where such equivalent interest rate is not a multiple of one-eighth of 1 percent, the rate of interest on the obligations involved shall be the multiple of one-eighth of 1 percent nearest such equivalent rate.* [The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.] *For purposes of the preceding sentence, the term "flower bond" means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representative of the estate of a deceased individual, be redeemed in advance of maturity and at par (face) value plus accrued interest to the date of payment if (i) it was owned by such deceased individual at the time of his death, (ii) it is part of the estate of such deceased individual, and (iii) such representative authorizes the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.*

[(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.]

* * * * * * *

Part C—Miscellaneous Provisions

DEFINITIONS OF SERVICES, INSTITUTIONS, ETC.

Sec. 1861. For purposes of this title—

Spell of Illness

(a) * * *

* * * * * * *

Reasonable Cost

(v)(1)(A) * * *

* * * * * * *

(G)(i) In any case in which a hospital provides inpatient services to an individual that would constitute post-hospital extended care services if provided by a skilled nursing facility and a quality control and peer review organization (or, in the absence of such a qualified organization, the Secretary or such agent as the Secretary may designate determines that inpatient hospital services for the individual are not medically necessary but post-hospital extended care services for the individual are medically necessary and such extended care services are not otherwise available to the individual (as determined in accordance with criteria established by the Secretary) at the time of such determination, payment for such services provided to the individual shall continue to be made under this title at the payment rate described in clause (ii) during the period in which—

> (I) such post-hospital extended care services for the individual are medically necessary and not otherwise available to the individual (as so determined),
>
> (II) inpatient hospital services for the individual are not medically necessary, and
>
> (III) the individual is entitled to have payment made for post-hospital extended care services under this title.

except that if the Secretary determines that the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more" and inserting in lieu thereof "there is not an excess of hospital beds in such hospital and (subject to clause (iv)) there is not an excess of hospital beds in the area of such hospital, such payment shall be made (during such period) [on the basis of the reasonable cost of] *the amount otherwise payable under part A with respect to* inpatient hospital services.

* * * * * * *

(2)(A) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations more expensive than semi-private accommodations, the amount taken into account for purposes of payment under this title with respect to such services may not exceed [an amount equal to the reasonable cost of] *the amount that would be taken into account with respect to* such services if furnished in such semi-private accommodations unless the more expensive accommodations were required for medical reasons.

(B) Where a provider of services which has an agreement in effect under this title furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under part A or part B, as the case may be, the Secretary shall take into account for purposes of payment to such provider of services only [the equivalent of the reasonable cost of] the items or services with respect to which such payment may be made.

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post hospital extended care services is in accommodations other than, but not more expensive than, semi-private accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this title, the amount of the payment with respect to such bed and board under part A shall be [the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1))] *the amount otherwise payable under this title for such bed and board furnished in semi-private accommodations minus the difference between the charge customarily made by the hospital or skilled nursing facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.*

EXCLUSIONS FROM COVERAGE

SEC. 1862. (a) Notwithstanding any other provisions of this title, no payment may be made under part A or part B for any expenses incurred for items or services—

(1)(A) * * *

* * * * * * *

(12) where such expenses are for services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, except that payment may be made under part A in the case of inpatient hospital services in connection with the provision of such dental services if the individual, because of his underlying medical condition and clinical status or because of the severity of the dental procedure, requires hospitalization in connection with the provision of such services; [or]

(13) where such expenses are for—

(A) the treatment of flat foot conditions and the prescription of supportive devices therefor,

(B) the treatment of subluxations of the foot, or

(C) routine foot care (including the cutting or removal of corns or calluses, the trimming of nails, and other routine hygienic care)[.]*; or*

(14) which are other than physicians' services and which are furnished to an individual who is an inpatient of a hospital by an entity other than the hospital, unless the services are fur-

nished under arrangements (as defined in section 1861(w)(1)) with the entity made by the hospital.

* * * * * * *

AGREEMENTS WITH PROVIDERS OF SERVICES

SEC. 1866. (a)(1) Any provider of services (except a fund designated for purposes of section 1814(g) and section 1835(e)) shall be qualified to participate under this title and shall be eligible for payments under this title if it files with the Secretary an agreement—

(A) * * *

* * * * * * *

(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this title) with respect to the provider, [and]

(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of title XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area with respect to patients who authorize release of such data of such purposes[.],

(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (d) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI) under which the organization will perform functions under that part with respect to the review of admissions, discharges, and quality of care respecting inpatient hospital services for which payment may be made under part A of this title,

(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or (d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f), and

(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under section 1886(d), to have all items and services (other than physicians' services) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1) made by the hospital.

(2)(A) * * *

(B)(i) Where a provider of services has furnished, at the request of such individual, items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this title, such provider of services may also charge such individual or other person for such more expensive items or services to the extent that the amount customarily charged by it for the items or services furnished at such request exceeds the amount customarily charged by it for the items or services with respect to which payment may be made under this title.

(ii) Where a provider of services customarily furnishes an individual items or services which are more expensive than the items or services determined to be necessary in the efficient delivery of needed health services under this title and which have not been requested by such individual, such provider may (except with respect to emergency services *and* except *with respect to inpatient hospital costs with respect to which amounts are payable under section 1886(d)*) also charge such individual or other person for such more expensive items or services to the extent that the costs of (or, if less, the customary charges for) such more expensive items or services experienced by such provider in the second fiscal period immediately preceding the fiscal period in which such charges are imposed exceed the cost of such items or services determined to be necessary in the efficient delivery of needed health services, but only if—

(I) the Secretary has provided notice to the public of any charges being imposed on individuals entitled to beneifts under this title on account of costs in excess of the costs determined to be necessary in the efficient delivery of needed health services under this title by particular providers of services in the area in which such items or services are furnished, and

* * * * * * *

PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 1876. (a)(1)(A) * * *

* * * * * * *

(g)(1) * * *

* * * * * * *

(4) A risk-sharing contract under this subsection may, at the option of an eligible organization, provide that the Secretary—

(A) will reimburse hospitals either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of inpatient hospital services furnished to individuals enrolled with such organization pursuant to subsection (d), and

(B) will deduct the amount of such reimbursement for payment which would otherwise be made to such organization.

* * * * * * *

PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 1878. (a) Any provider of services which has filed a required cost report within the time specified in regulations may obtain a hearing with respect to such cost report by a provider Reimbursement Review Board (hereinafter referred to as the "Board") which shall be established by the Secretary in accordance with subsection (h) *and (except as provided in subsection (g)(2)) any hospital which receives payments in amounts computed under section 1886(d) and which has submitted such reports within such time as the Secretary may require in order to make payment under such section may obtain a hearing with respect to such payment by the Board,* if—

(1) such provider—

(A)*(i)* is dissatisfied with a final determination of the organization serving as its fiscal intermediary pursuant to section 1816 as to the amount of total program reimbursement due the provider for the items and services furnished to individuals for which payment may be made under this title for the period covered by such report, *or*

(ii) is dissatisfied with a final determination of the Secretary as to the amount of the payment under section 1886(d),

(B) has not received such final determination from such intermediary on a timely basis after filing such report, where such report complied with the rules and regulations of the Secretary relating to such report, or

(C) has not received such final determination on a timely basis after filing a supplementary cost report, where such cost report did not so comply and such supplementary cost report did so comply,

(2) the amount in controversy is $10,000 or more, and

(3) such provider files a request for a hearing within 180 days after notice of the intermediary's final determination under paragraph [(1)(A)] *(1)(A)(i), or with respect to appeals under paragraph (1)(A)(ii), 180 days after notice of the Secretary's final determination,* or with respect to appeals pursuant to paragraph (1) (B) or (C), within 180 days after notice of such determination would have been received if such determination had been made on a timely basis.

* * * * * * *

(g) *(1)* The finding of a fiscal intermediary that no payment may be made under this title for any expensed incurred for items or services furnished to an individual because such items or services are listed in section 1862 shall not be reviewed by the Board, or by any court pursuant to an action brough under subsection (f).

(2) The determinations and other decisions described in section 1886(d)(7) shall not be reviewed by the Board or by any court pursuant to an action brought under subsection (f) or otherwise.

(h) The Board shall be composed of five members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive services. Two of such members shall be representative of providers of services. All of the members of the Board shall be persons knowledgeable in the field of [cost reimbursement] *payment of providers of* *services,* and at least one of them shall be a certified public accountant. Members of the Board shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate specified (at the time the service involved is rendered by such members) for grade GS–18 in section 5332 of title 5, United States Code. The term of office shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

MEDICARE COVERAGE FOR END STAGE RENAL DISEASE PATIENTS

SEC. 1881. (a) The benefits provided by parts A and B of this title shall include benefits for individuals who have been determined to have end-stage renal disease as provided in section 226A, and benefits for kidney donors as provided in subsection (d) of this section. Notwithstanding any other provision of this title, the type, duration, and scope of the benefit provided by parts A and B with respect to individuals who have been determined to have end-stage renal disease and who are entitled to such benefits without regard to section 226A shall in no case be less than the type, duration, and scope of the benefits so provided for individuals entitled to such benefits solely by reason of that section.

(b)(1) Payments under this title with respect to services, in addition to services for which payment would otherwise by made under this title, furnished to individuals who have been determined to have end-stage renal disease shall include (A) payments on behalf of such individuals to providers of services and renal dialysis facilities which meet such requirements as the Secretary shall by regulation prescribe for institutional dialysis services and supplies (including self-dialysis services in a self-care dialysis unit maintained by the provider or facility), transplantation services, self-care home dialysis support services which are furnished by the provider or facility, and routine professional services performed by a physician during a maintenance dialysis episode if payments for his other professional services furnished to an individual who has end-stage renal disease are made on the basis specified in paragraph (3)(A) of this subsection, and (B) payments to or on behalf of such individuals for home dialysis supplies and equipment. The requirements prescribed by the Secretary under subparagraph (A) shall include requirements for a minimum utilization rate for covered procedures and for self-dialysis training programs.

(2)(A) With respect to payments for dialysis services furnished by providers of services and renal dialysis facilities to individuals determined to have end-stage renal disease for which payments may be made under part B of this title, such payments (unless otherwise provided in this section) shall be equal to 80 percent of the amounts determined in accordance with subparagraph (B); and with respect to payments for services for which payments may be made under part A of this title, the amounts of such payments (which amounts shall not exceed, in respect to costs in procuring organs attributable to payments made to an organ procurement agency or histocompatibility laboratory, the costs incurred by that agency or laboratory) shall be determined in accordance with section 1861(v) *or section 1886 (if applicable)*. Payments shall be made to a renal dialysis facility only if it agrees to accept such payments as payment in full for covered services, except for payment by the individual of 20 percent of the estimated amounts for such services calculated on the basis established by the Secretary under subparagraph (B) and the deductible amount imposed by section 1833(b).

* * * * * * *

PAYMENT TO HOSPITALS FOR INPATIENT HOSPITAL SERVICES

SEC. 1886. (a)(1)(A)(i) The Secretary, in determining the amount of the payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in paragraph (4)) shall not recognize as reasonable (in the efficient delivery of health services) costs for the provision of such services by a hospital for a cost reporting period to the extent such costs exceed the applicable percentage (as determined under clause (ii)) of the average of such costs for all hospitals in the same grouping as such hospital for comparable time periods.

(ii) For purposes of clause (i), the applicable percentage for hospital cost reporting periods beginning—

(I) on or after October 1, 1982, and before October 1, 1983, is 120 percent;

(II) on or after October 1, 1983, and before October 1, 1984, is 115 percent; and

(III) on or after October 1, 1984, is 110 percent.

(B)(i) For purposes of subparagraph (A) the Secretary shall establish case mix indexes for all short-term hospitals, and shall set limits for each hospital based upon the general mix of types of medical cases with respect to which such hospital provides services for which payment may be made under this title.

(ii) The Secretary shall set such limits for a cost reporting period of a hospital—

(I) by updating available data for a previous period to the immediate preceding cost reporting period by the estimated average rate of change of hospital costs industry-wide, and

(II) by projecting for the cost reporting period by the applicable percentage increase (as defined in subsection (b)(3)(B)).

(C) The limitation established under subparagraph (A) for any hospital shall in no event be lower than the allowable operating costs of inpatient hospital services (as defined in paragraph (4)) recognized under this title for such hospital for such hospital's last cost reporting period prior to the hospital's first cost reporting period for which this section is in effect.

(D) Subparagraph (A) shall not apply to cost reporting periods beginning on or after October 1, 1985.

(2) The Secretary shall provide for such exemptions from, and exceptions and adjustments to, the limitation established under paragraph (1)(A) as he deems appropriate, including those which he deems necessary to take into account—

(A) the special needs of sole community hospitals, of new hospitals, of risk based health maintenance organizations, and of hospitals which provide atypical services or essential community services, and to take into account extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in the service area of the hospital, and unusual labor costs,

(B) the special needs of psychiatric hospitals and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title, and

(C) a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

(3) The limitation established under paragraph (1)(A) shall not apply with respect to any hospital which—

(A) is located outside of a standard metropolitan statistical area, and

(B)(i) has less than 50 beds, and

(ii) was in operation and had less than 50 beds on the date of the enactment of this section.

(4) For purposes of this section, the term "operating costs of inpatient hospital services" includes all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services as such costs are determined on an average per admission or per discharge basis (as determined by the Secretary). *Such term does not include capital-related costs and costs of approved educational activities, as defined by the Secretary.*

(b)(1) [Notwithstanding section 1814(b), but subject to the provisions of sections] *Notwithstanding section 1814(b) but subject to the provisions of section* 1813, if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital *(other than a subsection (d) hospital, as defined in subsection (d(1)(B))* for a cost reporting period subject to this paragraph—

(A) are less than or equal to the target amount (as defined in paragraph (3)) for that hospital for that period, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the amount of such operating costs, plus—

(i) 50 percent of the amount by which the target amount exceeds the amount of the operating costs, or

(ii) 5 percent of the target amount,

whichever is less; or

(B) are greater the target amount, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to (i) the target amount, plus (ii) in the case of cost reporting periods beginning on or after October 1, 1982, and before October 1, 1984, 25 percent of the amount by which the amount of the operating costs exceeds the target amount;

except that in no case may the amount payable under this title *(other than on the basis of a DRG prospective payment rate determined under subsection (d))* with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).

[(2) Paragraph (1) shall not apply to cost reporting periods of hospitals beginning on or after October 1, 1985.**]**

(3)(A) For purposes of this subsection, the term "target amount" means, with respect to a hospital for a particular 12-month cost reporting period—

(i) in the case of the first such reporting period for which this subsection is in effect, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for such hospital for the preceding 12-month cost reporting period, and

(ii) in the case a later reporting period, the target amount for the preceding 12-month cost reporting period,

increased by the applicable percentage increase under subparagraph (B) for that particular cost reporting period.

(B) For purposes of subparagraph (A) *and subsection (d) and except as provided in subsection (e),* the applicable percentage increase for any 12-month cost reporting period *or fiscal year* shall be equal to 1 percentage point plus the percentage, estimated by the Secretary *before the beginning of the period or year,* by which the cost of the mix of goods and services (including personnel costs but excluding non-operating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for such cost reporting period **[**exceeds**]** *or fiscal year will exceed* the cost of such mix of goods and services for the preceding 12-month cost reporting period *or fiscal year.*

* * * * * * *

(c)(1) The Secretary may provide, in his discretion, that payment with respect to services provided by a hospital in a State may be made in accordance with a hospital reimbursement control system in a State, rather than in accordance with the other provisions of this title, if the chief executive officer of the State requests such treatment and if—

(A) the Secretary determines that the system, if approved under this subsection, will apply (i) to substantially all non-Federal acute care hospitals (as defined by the Secretary) in the State and (ii) to the review of at least 75 percent of all revenues or expenses in the State for inpatient hospital services and of revenues or expenses for inpatient hospital services provided under the State's plan approved under title XIX;

(B) the Secretary has been provided satisfactory assurances as to the equitable treatment under the system of all entities (including Federal and State programs) that pay hospitals for inpatient hospital services, of hospital employees, and of hospital patients; **[**and**]**

(C) the Secretary has been provided satisfactory assurances that under the system, over 36-month periods (the first such period beginning with the first month in which this subsection applies to that system in the State), the amount of payments made under this title under such system will not exceed the amount of payments which would otherwise have been made under this title not using such system[.]*; and*

(D) the Secretary determines that the system will not preclude an eligible organization (as defined in section 1876(b)) from negotiating directly with hospitals with respect to the organization's rate of payment for inpatient hospital services.

The Secretary cannot deny the application of a State under this subsection on the ground that the State's hospital reimbursement control system is based on a payment methodology other than on the basis of a diagnosis-related group or on the ground that the amount of payments made under this title under such system must be less than the amount of payments which would otherwise have been made under this title not using such system. If the Secretary provides that the assurances described in subparagraph (C) are based on maintaining payment amounts at no more than a specified percentage increase above the payment amounts in a base period, the State has the option of applying such test (for inpatient hospital services under part A) on an aggregate payment basis or on the basis of the amount of payment per inpatient discharge or admission. If the Secretary provides that the assurances described in subparagraph (C) are based on maintaining aggregate payment amounts below a national average percentage increase in total payments under part A for inpatient hospital services, the Secretary cannot deny the application of a State under this subsection on the ground that the State's rate of increase in such payments for such services must be less than such national average rate of increase.

(2) In determining under paragraph (1)(C) the amount of payment which would otherwise have been made under this title for a State, the Secretary may provide for appropriate adjustment of such amount to take into account previous reductions effected in the amount of payments made under this title in the State due to the operation of the hospital reimbursement control system in the State if the system has resulted in an aggregate rate of increase in operating costs of inpatient hospital services (as defined in subsection (a)(4)) under this title for hospitals in the State which is less than the aggregate rate of increase in such costs under this title for hospitals in the United States.

(3) The Secretary shall discontinue payments under a system described in paragraph (1) if the Secretary—

(A) determines that the system no longer meets the [requirement of paragraph (1)(A)] *requirements of subparagraph (A) and (D) of paragraph (1) and, if applicable, the requirements of paragraph (5),* or

(B) has reason to believe that the assurances described in subparagraph (B) or (C) of paragraph (1) *(or, if applicable, in paragraph (5))* are not being (or will not be) met.

(4) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system, and

(B) with respect to that system a waiver of certain requirements of title XVIII of the Social Security Act has been approved on or before (and which is in effect as of) the date of the

enactment of the Social Security Act Amendments of 1983, pursuant to section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972.

(5) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system;

(B) the Secretary determines that the system—

(i) is operated directly by the State or by an entity designated pursuant to State law,

(ii) provides for payment of hospitals covered under the system under a methodology (which sets forth exceptions and adjustments, as well as any method for changes in the methodology) by which rates or amounts to be paid for hospital services during a specified period are established under the system prior to the defined rate period, and

(iii) hospitals covered under the system will make such reports (in lieu of cost and other reports, identified by the Secretary, otherwise required under this title) as the Secretary may require in order to properly monitor assurances provided under this subsection;

(C) the State has provided the Secretary with satisfactory assurances that operation of the system will not result in any change in hospital admission practices which result in—

(i) a significant reduction in the proportion of patients (receiving hospital services covered under the system) who have no third-party coverage and who are unable to pay for hospital services,

(ii) a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services.

(iii) the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or

(iv) the refusal to provide emergency services to any person who is in need of emergeny services if the hospital provides such services;

(D) any change by the State in the system which has the effect of materially reducing payments to hospitals can only take effect upon 60 days notice to the Secretary and to the hospitals the payment to which is likely to be materially affected by the change; and

(E) the State has provided the Secretary with satisfactory assurances that in the development of the system the State has consulted with local governmental officials concerning the impact of the system on public hospitals.

The Secretary shall respond to requests of States under this paragraph within 60 days of the date the request is submitted to the Secretary.

* * * * * * *

(d)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a subsection (d) hospital (as defined in subparagraph (B)) for inpatient hospital discharges in a cost reporting period or in a fiscal year—

(i) beginning on or after October 1, 1983, and before October 1, 1986, is equal to the sum of—

(I) the target percentage (as defined in subparagraph (C)) of the lesser of the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(A)), or the limitation established under subsection (a) (determined without regard to paragraph (2) thereof) for the period, and

(II) the DRG percentage (as defined in subparagraph (C)) of the adjusted DRG prospective payment rate determined under paragraph (2) or (3) for such discharges; or

(ii) beginning on or after October 1, 1986, is equal to the adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.

(B) As used in this section, the term "subsection (d) hospital" means a hospital located in one of the fifty States or the District of Columbia other than—

(i) a psychiatric hospital (as defined in section 1861(f)),

(ii) a rehabilitation hospital (as defined by the Secretary),

(iii) a hospital whose inpatients are predominantly individuals under 18 years of age, or

(iv) a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days;

and, upon request of a hospital and in accordance with regulations of the Secretary, does not include a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary).

(C) For purposes of this subsection, for cost reporting periods beginning, or discharges occurring—

(i) on or after October 1, 1983, and before October 1, 1984, the "target percentage" is 75 percent and the "DRG percentage" is 25 percent;

(ii) on or after October 1, 1984, and before October 1, 1985, the "target percentage" is 50 percent and the "DRG percentage" is 50 percent; and

(iii) on or after October 1, 1985, and before October 1, 1986, the "target percentage" is 25 percent and the "DRG percentage" is 75 percent.

(2) The Secretary shall determine an adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital (located in an urban or rural area within a census division) for which payment may be made under part A of this title, as follows:

(A) DETERMINING ALLOWABLE INDIVIDUAL HOSPITAL COSTS FOR BASE PERIOD.—The Secretary shall determine the allowable operating costs of inpatient hospital services for the hospital for the most recent cost reporting period for which data are available.

(B) UPDATING FOR FISCAL YEAR 1984.—The Secretary shall update each amount determined under subparagraph (A) for fiscal year 1984 by—

(i) updating for fiscal year 1983 by the estimated average rate of change of hospital costs industry-wide between the cost reporting period used under such subparagraph and fiscal year 1983, and

(ii) projecting for fiscal year 1984 by the applicable percentage increase (as defined in subsection (b)(3)(B)) for fiscal year 1984.

(C) STANDARDIZING AMOUNTS.—The Secretary shall standardize the amount updated under subparagraph (B) for each hospital by—

(i) excluding an estimate of indirect medical education costs,

(ii) adjusting for variations among hospitals by area in the average hospital wage level, and

(iii) adjusting for variations in case mix among hospitals.

(D) COMPUTING URBAN AND RURAL AVERAGES IN EACH CENSUS DIVISION.—The Secretary shall compute an average of the standardized amounts determined under subparagraph (C) for each census division—

(i) for all subsection (d) hospitals located in an urban area in that division, and

(ii) for all subsection (d) hospitals located in a rural area in that division.

For purposes of this subsection, the term "census division" means one of the nine divisions, comprising the fifty States and the District of Columbia, established by the Bureau of the Census for statistical and reporting purposes; the term "urban area" means an area within a Standard Metropolitan Statistical Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under subsection (a) by regulation in effect as of January 1, 1983; and the term "rural area" means any area outside such an Area or similar area.

(E) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (D) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment rates which are additional payments described in paragraph (5)(A) (relating to outlier payments).

(F) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

(G) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS IN EACH CENSUS DIVISION.—For each discharge clas-

sified witin a diagnosis-related group, the Secretary shall establish a DRG prospective payment rate which is equal—

(i) for hospitals located in an urban area in a census division, to the product of—

(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in an urban area in that division, and

(II) the weighting factor (determined under paragraph (4) (B)) for that diagnosis-related group; and

(ii) for hospitals located in a rural area in a census division, to the product of—

(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in a rural area in that division, and

(II) the weighting factor (determined under paragraph (4) (B)) for that diagnosis-related group.

(H) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion, (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (G) for area differenced in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

(3) The Secretary shall determine an adjusted DRG prospective payment rate, for each inpatient hospital discharge in a fiscal year after fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital for which payment may be made under part A of this title, as follows:

(A) UPDATING PREVIOUS STANDARDIZED AMOUNTS.—The Secretary shall compute an average standardize amount—

(i) for fiscal years 1985, 1986, and 1987, for hospitals located in an urban area within each census division and for hospitals located in a rural area within each census division, and

(ii) for subsequent fiscal years, for hospitals located in an urban area and for hospitals located in a rural area,

equal to the respective average standardized amount (or, for fiscal year 1988, the weighted average of the respective average standardized amounts) computed for the previous fiscal year under paragraph (2)(D) or under this subparagraph, increased by the applicable percentage increase under subsection (b)(3)(B) for that particular fiscal year.

(B) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (A) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which are additinal payments described in paragraph (5)(A) (relating to outlier payments).

(C) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

(D) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a DRG prospective payment rate for the fiscal year which is equal—

(i) for hospitals located in an urban area (and, if applicable, in a census division), to the product of—

(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in an urban area (and, if applicable, in that division), and

(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

(ii) for hospitals located in a rural area (and, if applicable, in a census division), to the product of—

(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in a rural area (and, if applicable in that division), and

(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

(E) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion, (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (D) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

(4)(A) The Secretary shall establish (and may from time to time make changes in) a classification of inpatient hospital discharges by diagnosis-related groups and a methodology for classifying specific hospital discharges within these groups.

(B) For each such diagnosis-related group the Secretary shall assign (and may from time to time recompute) an appropriate weighting factor which reflects the relative hospital resources used with respect to discharges classified within that groups compared to discharges classified within other groups.

(5)(A)(i) The Secretary shall provide for an additional payment amount (as determined by the Secretary) for a subsection (d) hospital for any discharge in a diagnosis-related group the length of stay of which exceeds by 30 or more days the mean length of stay of discharges within that group.

(ii) The Secretary shall provide for an additional payment amount (as determined by the Secretary) for a subsection (d) hospital for any discharge in a diagnosis-related group—

(I) the length of stay of which exceeds by a period (which may vary by diagnosis-related group) of less than 30 days the mean length of stay for discharges within that group or

(II) which reflects extraordinarily or unusually expensive costs relative to discharges classified within that group,

so that the total of the additional payments made under this subparagraph for discharges in a fiscal year is not less than 4 percent of the total payments made based on DRG prospective payment rates for discharges in that year.

(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except that in the computation under this subparagraph the Secretary shall use an educational adjustment factor equal to twice the factor provided under such regulations.

(C)(i) The Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title.

(ii) The Secretary may provide (on a general, class, or individual basis) for exceptions and adjustments to the payment amounts established under this subsection to take into account the special needs of sole community hospitals. For purposes of this section the term "sole community hospital" means a hospital that, by reason of factors such as isolated location or absense of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographical area who are entitled to benefits under part A.

(iii) The Secretary shall provide by regulation for such other exceptions and adjustments to such payment amounts as the Secretary deems appropriate (including exceptions and adjustments that may be appropriate with respect to public and teaching hospitals and with respect to hospitals involved extensively in treatment for and research on cancer).

(iv) The Secretary may provide for such adjustments to the payment amounts as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

(D)(i) The Secretary shall estimate for each fiscal year the amount of reimbursement made for services described in section 1862(a)(14) with respect to which payment was made under part B in the base reporting periods referred to in paragraph (2)(A) and with respect to which payment is no longer being made in the fiscal year.

(ii) The Secretary shall provide for an additional payment for subsection (d) hospitals in each fiscal year so as appropriately to reflect the net amount described in clause (i) for that fiscal year.

(E) This paragraph shall apply only to subsection (d) hospitals that receive payments in amounts computed under this subsection.

(6) The Secretary shall provide for publication in the Federal Register, on or before the September 1 before each fiscal year (beginning with fiscal year 1984), of a description of the methodology and data used in computing the adjusted DRG prospective payment rates

under this subsection, including any adjustments required under subsection (e)(1)(B).

(7) There shall be no administrative or judicial review under section 1878 or otherwise of—

(A) the determination of the requirement, or the proportional amount, of any adjustment effected pursuant to subsection (e)(1), and

(B) the establishment of diagnosis-related groups, of the methodology for the classification of discharges within such groups, and of the appropriate weighting factors thereof under paragraph (4).

(e)(1)(A) For cost reporting periods of hospitals beginning in fiscal year 1984 or fiscal year 1985, the Secretary shall provide for such proportional adjustment in the applicable percentage increase (otherwise applicable to the periods under subsection (b)(3)(B)) as may be necessary to assure that—

(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(I) for that fiscal year for operating costs of inpatient hospital services of hospitals,

are not greater or less than—

(ii) the target percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983;

except that the adjustment made under this subparagraph shall apply only to subsection (d) hospitals and shall not apply for purposes of making computations under subsection (d)(2)(B)(ii) or subsection (d)(3)(A).

(B) For discharges occurring in fiscal year 1984 or fiscal year 1985, the Secretary shall provide under subsections (d)(2)(F) and (d)(3)(C) for such equal proportional adjustment in each of the average standardized amounts otherwise computed for that fiscal year as may be necessary to assure that—

(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(II) for that fiscal year for operating costs of inpatient hospital services of hospitals,

are not greater or less than—

(ii) the DRG percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983.

(2) The Secretary shall provide for appointment of a panel of independent experts (hereinafter in this subsection referred to as the "panel") to review the applicable percentage increase factor described in subsection (b)(3)(B) and make recommendations to the Secretary on the appropriate percentage increase which should be effected for hospital inpatient discharges under subsections (b) and (d) for fiscal years beginning with fiscal year 1986. In making its recommendations, the panel shall take into account changes in the hospital market-basket described in subsection (b)(3)(B), hospital productivity, technological and scientific advances, the quality of

health care provided in hospitals, and long-term cost-effectiveness in the provision of inpatient hospital services.

(3) The panel, not later than the May 1 before the beginning of each fiscal year (beginning with fiscal year 1986), shall report its recommendations to the Secretary on an appropriate increase factor which should be used (instead of the applicable percentage increase described in subsection (b)(3)(B)) for inpatient hospital services for discharges in that fiscal year.

(4) Taking into consideration the recommendations of the panel, the Secretary shall determine for each fiscal year (beginning with fiscal year 1986) the percentage increase which will apply for purposes of this section as the applicable percentage increase (otherwise described in subsection (b)(3)(B)) for discharges in that fiscal year.

(5) The Secretary shall cause to have published in the Federal Register, not later than—

- *(A) the June 1 before each fiscal year (beginning with fiscal year 1986), the Secretary's proposed determination under paragraph (4) for that fiscal year, and*
- *(B) the September 1 before such fiscal year, the Secretary's final determination under such paragraph for that year.*

The Secretary shall include in the publication referred to in subparagraph (A) for a fiscal year the report of the panel's recommendations submitted under paragraph (3) for that fiscal year.

(6) The Secretary shall maintain, for a period ending not earlier than September 30, 1988, a system for the reporting of costs of hospitals receiving payments computed under subsection (d).

(f)(1) The Secretary shall establish a system for monitoring admissions and discharges of hospitals receiving payment in amounts determined under subsection (b) or subsection (d) of this section. Such system shall use fiscal intermediaries, utilization and quality control peer review organizations with contracts under part B of title XI, and others to review hospital admission and discharge practices and the quality of inpatient hospital services provided for which payment may be made under part A of this title.

(2) If the Secretary determines that a hospital, in order to circumvent the payment method established under subsection (b) or (d) of this section, has taken an action that results in the admission of individuals entitled to benefits under part A unnecessarily, unnecessary multiple admissions of the same such individuals, or other inappropriate medical or other practices with respect to such individuals, the Secretary may—

- *(A) deny payment (in whole or in part) under part A with respect to inpatient hospital services provided with respect to such an unnecessary admission (or subsequent admission of the same individual), or*
- *(B) require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.*

(3) The provisions of paragraphs (2), (3), and (4) of section 1862(d) shall apply to determinations under paragraph (2) of this subsection in the same manner as they apply to determinations made under section 1862(d)(1).

(g)(1) No payment may be made under this title for capital-related costs of capital expenditures (as defined in section 1122(g)) for inpatient hospital services in a State, which expenditures occurred after

the end of the 3-year period beginning on the date of the enactment of this subsection, unless the State has an agreement with the Secretary under section 1122(b) and, under the agreement, the State has recommended approval of the capital expenditures.

(2) The Secretary shall provide that the amount which is allowable, with respect to costs of inpatient hospital services for which payment may be made under this title, for a return on equity capital for subsection (d) hospital (as defined in subsection (d)(1)(B)) shall, for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1986, be equal to the target percentage (as defined in subsection (d)(1)(C)) of the amounts otherwise allowable under regulations in effect on March 1, 1983. For cost reporting periods beginning on or after October 1, 1986, the Secretary shall not provide for any such return on equity capital for such hospitals.

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PAYMENT OF PROVIDER-BASED PHYSICIANS AND PAYMENT UNDER CERTAIN PERCENTAGE ARRANGEMENTS

SEC. 1887. (a)(1) The Secretary shall by regulation determine criteria for distinguishing those services (including inpatient and outpatient services) rendered in hospitals or skilled nursing facilities—

(A) which constitute professional medical services, which are personally rendered for an individual patient by a physician and which contribute to the diagnosis or treatment of an individual patient, and which may be reimbursed as physicians' services under part B, and

(B) which constitute professional services which are rendered for the general benefit to patients in a hospital or skilled nursing facility and which may be reimbursed only on a reasonable cost basis *or on the bases described in section 1886.*

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INTERNAL REVENUE CODE OF 1954

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Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter A—Determination of Tax Liability

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PART IV—CREDITS AGAINST TAX

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Subpart A—Credits Allowable

Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends.
Sec. 32. Tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds.
Sec. 33. Taxes of foreign countries and possessions of the United States; possession tax credit.
[Sec. 37. Credit for the elderly.]
Sec. 37. Credit for the elderly and the permanently and totally disabled.

* * * * * * *

[SEC. 37. CREDIT FOR THE ELDERLY.

[(a) General Rule.—In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 account for such taxable year.

[(b) Section 37 Amount.—For purposes of subsection (a)—

[(1) In general.—An individual's section 37 amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (c).

[(2) Initial amount.—The initial amount is—

[(A) $2,500 in the case of a single individual,

[(B) $2,500 in the case of a joint return where only one spouse is eligible for the credit under subsection (a),

[(C) $3,750 in the case of a joint return where both spouses are eligible for the credit under subsection (a), or

[(D) $1,875 in the case of a married individual filing a separate return.

[(3) Reduction.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity—

[(A) under title II of the Social Security Act,

[(B) under the Railroad Retirement Act of 1935 or 1937, or

[(C) otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 120 (relating to amounts received under qualified group legal services plans), 402 (relating to taxability of beneficiary of employees' trust), 403 (relating to taxation of employee annuities), or 405 (relating to qualified bond purchase plans).

[(c) Limitations.—

[(1) Adjusted gross income limitation.—If the adjusted gross income of the taxpayer exceeds—

[(A) $7,500 in the case of a single individual,

[(B) $10,000 in the case of a joint return, or

[(C) $5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.

[(2) Limitation based on amount of tax.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

[(d) Definitions and Special Rules.—For purposes of this section—

[(1) Married couple must file joint return.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

[(2) Marital status.—Marital status shall be determined under section 143.

[(3) Joint return.—The term "joint return" means the joint return of a husband and wife made under section 6013.

[(e) Election of Prior Law With Respect to Public Retirement System Income.—

[(1) In general.—In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subsection.

[(2) One spouse age 65 or over.—In the case of a married individual who has not attained age 65 before the close of the taxable year (and whose gross income includes income described in paragraph (4)(B)) but whose spouse has attained such age this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Secretary shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subsection.

[(3) Computation of credit.—In the case of an individual whose credit under this section for the taxable year is determined under this subsection, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).

[(4) Retirement income.—For purposes of this subsection, the term "retirement income" means—

[(A) in the case of an individual who has attained age 65 before the close of the taxable year, income from—

[(i) pensions and annuities (including, in the case of an individual who is, or has been an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a)), [(ii) interest,

[(iii) rents,

[(iv) dividends,

[(v) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or retirement bonds described in section 409, and

[(vi) an individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b); or

[(B) in the case of an individual who has not attained age 65 before the close of the taxable year and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services), income from pensions and annuities under a public retirement system (as defined in paragraph (9)(A)),

to the extent included in gross income without reference to this subsection, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

[(5) LIMITATION ON RETIREMENT INCOME.—For purposes of this subsection, the amount of retirement income shall not exceed $2,500 less—

[(A) the reduction provided by subsection (b)(3), and

[(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

[(i) if such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (9)(B)) in excess of $900 received by such individual in the taxable year, or

[(ii) if such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of $1,200 but not in excess of $1,700, and the amount of earned income so received in excess of $1,700.

[(6) LIMITATION IN CASE OF MARRIED INDIVIDUALS.—In the case of a joint return, paragraph (5) shall be applied by substituting "$3,750" for $2,500". The $3,750 provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than $2,500 may be assigned to either spouse.

[(7) LIMITATION IN THE CASE OF SEPARATE RETURNS.—In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting "$1,875" for "$2,500".

[(8) COMMUNITY PROPERTY LAWS NOT APPLICABLE.—In the case of a joint return, this subsection shall be applied without regard to community property laws.

[(9) DEFINITIONS.—For purposes of this subsection—

[(A) PUBLIC RETIREMENT SYSTEM DEFINED.—The term "public retirement system" means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

[(B) EARNED INCOME.—The term "earned income" has the meaning assigned to such term by section 911(d)(2), except that such term does not include any amount received as a pension or annuity.]

SEC. 37. CREDIT FOR THE ELDERLY AND THE PERMANENTLY AND TOTALLY DISABLED.

(a) GENERAL RULE.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

(b) QUALIFIED INDIVIDUAL.—For purposes of this section, the term "qualified individual" means any individual—

(1) who has attained age 65 before the close of the taxable year, or

(2) who retired on disability before the close of the taxable year and who, when he retired, was permanently and totally disabled.

(c) SECTION 37 AMOUNT.—For purposes of subsection (a)—

(1) IN GENERAL.—An individual's section 37 amount for the taxable year shall be the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (d).

(2) INITIAL AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the initial amount shall be—

(i) $5,000 in the case of a single individual, or a joint return where only one spouse is a qualified individual,

(ii) $7,500 in the case of a joint return where both spouses are qualified individuals, or

(iii) $3,750 in the case of a married individual filing a separate return.

(B) LIMITATION IN CASE OF INDIVIDUALS WHO HAVE NOT ATTAINED AGE 65.—

(i) IN GENERAL.—In the case of a qualified individual who has not attained age 65 before the close of the taxable year, except as provided in clause (ii), the intial amount shall not exceed the disability income for the taxable year.

(ii) SPECIAL RULES IN CASE OF JOINT RETURN.—In the case of a joint return where both spouses are qualified individuals and at least 1 spouse has not attained age 65 before the close of the taxable year—

(I) if both spouses have not attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of such spouses' disability income, or

(II) if one spouse has attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of $5,000 plus the disabilty

income for the taxable year of the spouse who has not attained age 65 before the close of the taxable year.

(iii) Disability income.—For purposes of this subparagraph, the term "disability income" means the aggregate amount includible in the gross income of the individual for the taxable year under section 72 or 105(a) to the extent such amount constitutes wages (or payments in lieu of wages) for the period during which the individual is absent from work on account of permanent and totally disability.

(3) Reduction.—

(A) In general.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity or as a disability benefit—

(i) under title II of the Social Security Act,

(ii) under the Railroad Retirement Act of 1974, or

(iii) otherwise excluded from gross income.

(B) No reduction for certain exclusions.—No reduction shall be made under clause (iii) of subparagraph (A) for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 120 (relating to amounts received under qualified group legal services plans), 402 (relating to taxability of beneficiary of employees' trust), 403 (relating to taxation of employee annuities), or 405 (relating to qualified bond purchase plans).

(C) Treatment of certain workmen's compensation benefits.—For purposes of subparagraph (A), any amount treated as a social secuirty benefit under section 86(d)(3) shall be treated as a disability benefit received under title II of the Social Security Act.

(d) Limitations.—

(1) Adjusted gross income limitation.—If the adjusted gross income of the taxpayer exceeds—

(A) $7,500 in the case of a single individual,

(B) $10,000 in the case of a joint return, or

(C) $5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.

(2) Limitation based on amount of tax.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

(e) Definitions and Special Rules.—For purposes of this section—

(1) Married couple must file joint return.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the

taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

(2) Marital status.—Marital status shall be determined under section 143.

(3) Permanent and total disability defined.—An individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

(f) Nonresident Alien Iniligible for Credit.—No credit shall be allowed under this section to any nonresident alien.

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SEC. 41. CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE.

(a) General Rule.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of all political contributions and all newsletter fund contributions, payment of which is made by the taxpayer within the taxable year.

(b) Limitations.—

(1) Maximum credit.—The credit allowed by subsection (a) for a taxable year shall not exceed $50 ($100 in the case of a joint return under section 6013).

(2) Application with other credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 37 (relating to credit for the elderly *and the permanently and totally disabled*), and section 38 (relating to investment in certain depreciable property).

(3) Verification.—The credit allowed by subsection (a) shall be allowed, with respect to any political contribution or newsletter fund contribution, only if such contribution is verified in such manner as the Secretary shall prescribe by regulations.

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SEC. 44A. EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT.

(a) Allowance of Credit—

(1) In general.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term "applicable percentage" means 30 percent reduced (but not below 20 percent) by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000.

(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

(1) section 33 (relating to foreign tax credit),

(2) section 37 (relating to credit for the elderly *and the permanently and totally disabled*),

(3) section 38 (relating to investment in certain depreciable property),

(4) section 40 (relating to expenses of work incentive programs),

(5) section 41 (relating to contributions to candidates for public office),

(6) section 42 (relating to general tax credit), and

(7) section 44 (relating to purchase of new principal residence).

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Subpart B—Rules for Computing Credit for Investment in Certain Depreciable Property

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SEC. 46. AMOUNT OF CREDIT.

(a) GENERAL RULE.—

(1) FIRST-IN-FIRST-OUT RULE.—* * *

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(4) LIABILITY FOR TAX.—For purposes of paragraph (3), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

(A) section 33 (relating to foreign tax credit), and

(B) section 37 (relating to credit for the elderly *and the permanently and totally disabled*).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to corporate minimum tax), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1374 (relating to tax on certain capital gains of S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

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Subpart D—Rules for Computing Credit for Employment of Certain New Employees

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SEC. 53. LIMITATION BASED ON AMOUNT OF TAX.

(a) GENERAL RULE.—Notwithstanding section 51, the amount of the credit allowed by section 44B for the taxable year shall not exceed 90 percent of the excess of the tax imposed by this chapter for the taxable year over the sum of the credits allowable under—

(1) section 33 (relating to foreign tax credit),

(2) section 37 (relating to credit for the elderly *and the permanently and totally disabled*),

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Subchapter B—Computation of Taxable Income

* * * * * * *

PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

Sec. 71. Alimony and separate maintenance payments.
Sec. 72. Annuities; certain proceeds of endowment and life insurance contracts.
Sec. 73. Services of child.
Sec. 74. Prizes and awards.
Sec. 75. Dealers in tax-exempt securities.
Sec. 77. Commodity credit loans.
Sec. 78. Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit.
Sec. 79. Group-term life insurance purchased for employees.
Sec. 80. Restoration of value of certain securities.
Sec. 81. Certain increases in suspense accounts.
Sec. 82. Reimbursement for expenses of moving.
Sec. 83. Property transferred in connection with performance of services.
Sec. 84. Transfer of appreciated property to political organization.
Sec. 85. Unemployment compensation.
[Sec. 86. Alcohol fuel credit.]
Sec. 86. Social security and tier 1 railroad retirement benefits.
Sec. 87. Alcohol fuel credit.

* * * * * * *

SEC. 85. UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—If the sum for the taxable year of the adjusted gross income of the taxpayer (determined without regard to [this section, section 105(d)] *this section, section 86,* and section 221) and the unemployment compensation exceeds the base amount, gross income for the taxable year includes unemployment compensation in an amount equal to the lesser of—

(1) one-half of the amount of the excess of such sum over the base amount, or

(2) the amount of the unemployment compensation.

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SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) includes social security benefits in an amount equal to the lesser of—

(1) one-half of the social security benefits received during the taxable year, or

(2) one-half of the excess described in subsection (b).

(b) TAXPAYERS TO WHOM SUBSECTION (a) APPLIES.—A taxpayer is described in this subsection if—

(1) the sum of—

(A) the adjusted gross income of the taxpayer for the taxable year (determined without regard to this section and sections 221, 911, and 931, plus

(B) one-half of the social security benefits received during the taxable year, exceeds

(2) the base amount.

(c) BASE AMOUNT.—For purposes of this section, the term "base amount" means—

(1) except as otherwise provided in this subsection, $24,500,

(2) $31,500, in the case of a joint return, and

(3) zero, in the case of a taxpayer who—

(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

(B) does not live apart from his spouse at all times during the taxable year.

(d) SOCIAL SECURITY BENEFIT.—

(1) IN GENERAL.—For purposes of this section, the term "social security benefit" means any amount received by the taxpayer by reason of entitlement to—

(A) a monthly benefit under title II of the Social Security Act, or

(B) a tier 1 railroad retirement benefit.

(2) ADJUSTMENT FOR REPAYMENTS DURING YEAR.—

(A) IN GENERAL.—For purposes of this section, the amount of social security benefits received during any taxable year shall be reduced by any repayment made by the taxpayer during the taxable year of a social security benefit previously received by the taxpayer (whether or not such benefit was received during the taxable year).

(B) DENIAL OF DEDUCTION.—If (but for this subparagraph) any portion of the repayments referred to in subparagraph (A) would have been allowable as a deduction for the taxable year under section 165, such portion shall be allowable as a deduction only to the extent it exceeds the social security benefits received by the taxpayer during the taxable year (and not repaid during such taxable year).

(3) WORKMEN'S COMPENSATION BENEFITS SUBSTITUTED FOR SOCIAL SECURITY BENEFITS.—For purposes of this section, if, by reason of section 224 of the Social Security Act (or by reason of section 3(a)(1) of the Railroad Retirement Act of 1974), any social security benefit is reduced by reason of the receipt of a benefit under a workmen's compensation act, the term "social security benefit" includes that portion of such benefit received

under the workmen's compensation act which equals such reduction.

(4) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term "tier 1 railroad retirement benefit" means a monthly benefit under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974 (determined by taking into account sections 204(a)(1), 206(1), and 207(1) of Public Law 93-445).

(e) LIMITATION ON AMOUNT INCLUDED WHERE TAXPAYER RECEIVES LUMP-SUM PAYMENT.—

(1) LIMITATION.—If—

(A) any portion of a lump-sum payment of social security benefits received during the taxable year is attributable to prior taxable years, and

(B) the taxpayer makes an election under this subsection for the taxable year,

then the amount included in gross income under this section for the taxable year by reason of the receipt of such portion shall not exceed the sum of the increases in gross income under this chapter for prior taxable years which would result solely from taking into account such portion in the taxable years to which it is attributable.

(2) SPECIAL RULES.—

(A) YEAR TO WHICH BENEFIT ATTRIBUTABLE.—For purposes of this subsection, a social security benefit is attributable to a taxable year if the generally applicable payment date for such benefit occurred during such taxable year.

(B) ELECTION.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such election, once made, may be revoked only with the consent of the Secretary.

(f) TREATMENT AS PENSION OR ANNUITY FOR CERTAIN PURPOSES.—For purposes of—

(1) Section 43(c)(2) (defining earned income),

(2) Section 219(f)(1) (defining compensation),

(3) Section 221(b)(2) (defining earned income), and

(4) Section 911(b)(1) (defining foreign earned income),

any social security benefit shall be treated as an amount received as a pension or annuity.

[SEC. 86.] *SEC. 87.* ALCOHOL FUEL CREDIT.

Gross income includes an amount equal to the amount of the credit allowable to the taxpayer under section 44E for the taxable year (determined without regard to subsection (e) thereof).

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

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SEC. 105. AMOUNTS RECEIVED UNDER ACCIDENT AND HEALTH PLANS.

(a) AMOUNT ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—* * *

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[(d) CERTAIN DISABILITY PAYMENT.—

[(1) IN GENERAL.—In the case of a taxpayer who—

[(A) has not attained age 65 before the close of the taxable year, and

[(B) retired on disability and, when he retired, was permanently and totally disabled,

gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

[(2) LIMITATION.—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of $100.

[(3) PHASEOUT OVER $15,000.—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection and section 221) exceeds $15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over $15,000.

[(4) PERMANENT AND TOTAL DISABILITY DEFINED.—For purposes of this subsection, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

[(5) SPECIAL RULES FOR MARRIED COUPLES.—

[(A) Married couple must file joint return.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

[(B) Application of paragraphs (2) and (3).—In the case of a joint return—

[(i) paragraph (2) shall be applied separately with respect to each spouse, but

[(ii) paragraph (3) shall be applied with respect to their combined adjusted gross income.

[(C) Determination of marital status.—For purposes of this subsection, marital status shall be determined under section 143(a).

[(D) Joint return defined.—For purposes of this subsection, the term "joint return" means the joint return of a husband and wife made under section 6013.

[(6) Coordination with section 72.—In the case of an individual described in subparagraphs (A) and (B) of paragraph (1), for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years.]

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SEC. 128. PARTIAL EXCLUSION OF INTEREST.

(a) In General.—* * *

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(c) Definitions.—For purposes of this section—

(1) Interest defined.—* * *

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(3) Limitation on Qualified interest expenses, etc.—

(A) Limitation.—The amount of the qualified interest expense of any taxpayer for any taxable year shall not exceed such taxpayer's excess itemized deductions (as defined in section 63(d)).

(B) Coordination with other provisions.—For purposes of sections 37, 43, 85, *86,* [105(d),] 165(c)(3), 170(b), and 213, adjusted gross income shall be determined without regard to the exclusion provided by this section.

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PART IX—ITEMS NOT DEDUCTIBLE

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SEC. 275. CERTAIN TAXES.

(a) General Rule.—No deduction shall be allowed for the following taxes:

(1) Federal income taxes, including—

(A) the tax imposed by section 3101 (relating to the tax on employees under the Federal Insurance Contributions Act);

(B) the taxes imposed by sections 3201 and 3211 (relating to the taxes on railroad employees and railroad employee representatives);

(C) the tax withheld at source on wages under 3402; and

(D) the tax withheld at source on interest, dividends, and patronage dividends under section 3451.

(2) Federal war profits and excess profits taxes.

(3) Estate, inheritance, legacy, succession, and gift taxes.

(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States, if the taxpayer chooses to take to any extent the benefits of section 901 (relating to the foreign tax credit).

(5) Taxes on real property, to the extent that section 164(d) requires such taxes to be treated as imposed on another taxpayer.

(6) Taxes imposed by chapters 41, 42, 43, and 44.

Paragraph (1) shall not apply to any taxes to the extent such taxes are allowable as a deduction under section 164(f).

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Subchapter D—Deferred Compensation, Etc.

Part I. Pension, profit-sharing, stock bonus plans, etc.
Part II. Certain stock options.

PART I—PENSION, PROFIT-SHARING, STOCK BONUS PLANS, ETC.

Subpart A—General Rule

Sec. 401. Qualified pension, profit-sharing, and stock bonus plans.
Sec. 402. Taxability of beneficiary of employees' trust.
Sec. 403. Taxation of employee annuities.
Sec. 404. Deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan.
Sec. 404A. Deduction for certain foreign deferred compensation plans.
Sec. 405. Qualified bond purchase plans.
[Sec. 406. Certain employees of foreign subsidiaries.]
Sec. 406. Employees of foreign affiliates covered by section 3121 (l) agreements.
Sec. 407. Certain employees of domestic subsidiaries engaged in business outside the United States.
Sec. 408. Individual retirement accounts.
Sec. 409. Retirement bonds.
Sec. 409A. Qualifications for tax credit employee stock ownership plans.

SEC. 403. TAXATION OF EMPLOYEE ANNUITIES.

(a) Taxability of Beneficiary Under a Qualified Annuity Plan.—

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(b) Taxability of Beneficiary Under Annuity Purchased by Section 501(c)(3) Organization or Public School.—

(1) General rule.—If—

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(3) Includible compensation.—For purposes of this subsection, the term "includible compensation" means, in the case of any employee, the amount of compensation which is received from the employer described in paragraph (1)(A), and which is includible in gross income (computed without regard to [section 105(d) and 911] *section 911*) for the most recent period (ending not later than the close of the taxable year) which under paragraph (4) may be counted as one year of service. Such term does not include any amount contributed by the employer for any annuity contract to which this subsection applies.

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[SEC. 406. CERTAIN EMPLOYEES OF FOREIGN SUBSIDIARIES.]

SEC. 406. EMPLOYEES OF FOREIGN AFFILIATES COVERED BY SECTION 3121(l) AGREEMENTS.

[(a) Treatment as Employees of Domestic Corporation.—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of a domestic corporation, an individual who is a citizen of the United States and who is an employee of a foreign subsidiary (as defined in section 3121(l)(8)) of such domestic corporation shall be treated as an employee of such domestic corporation, if—

[(1) such domestic corporation has entered into an agreement under section 3121(l) which applies to the foreign subsidiary of which such individual is an employee;

[(2) the plan of such domestic corporation expressly provides for contributions or benefits for individuals who are citizens of the United States and who are employees of its foreign subsidiaries to which an agreement entered into by such domestic corporation under section 3121(l) applies; and

[(3) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the foreign subsidiary.]

(a) TREATMENT AS EMPLOYEES OF AMERICAN EMPLOYER.—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of an American employer (as defined in section 3121(h)), an individual who is a citizen or resident of the United States and who is an employee of a foreign affiliate (as defined in section 3121(l)(8)) of such American employer shall be treated as an employee of such American employer, if—

(1) such American employer has entered into an agreement under section 3121(l) which applies to the foreign affiliate of which such individual is an employee;

(2) the plan of such American employer expressly provides for contributions or benefits for individuals who are citizens or residents of the United States and who are employees of its foreign affiliates to which an agreement entered into by such American employer under section 3121(l) applies; and

(3) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the foreign affiliate.

(b) SPECIAL RULES FOR APPLICATION OF SECTION 401(a).—

(1) NONDISCRIMINATION REQUIREMENTS.—For purposes of applying section 401(a)(4) and section 410(b) (without regard to paragraph (1)(A) thereof) with respect to an individual who is treated as an employee of [a domestic corporation] *an American employer* under subsection (a)—

(A) if such individual is an officer, shareholder, or person whose principal duties consist in supervising the work of other employees of a foreign [subsidiary] *affiliate* of such [domestic corporation,] *American employer,* he shall be treated as having such capacity with respect to such [domestic corporation] American employer; and

(B) the determination of whether such individual is a highly compensated employee shall be made by treating such individual's total compensation (determined with the application of paragraph (2) of this subsection) as compensation paid by such [domestic corporation] *American employer* and by determining such individual's status with regard to such [domestic corporation] *American employer.*

(2) DETERMINATION OF COMPENSATION.—For purposes of applying paragraph (5) of section 401(a) with respect to an individual who is treated as an employee of [a domestic corporation] *an American employer* under subsection (a)—

(A) the total compensation of such individual shall be the remuneration paid to such individual by the foreign [subsidiary] *affiliate* which would constitute his total compensation if his services had been performed for such [domestic corporation] *American employer* and the basic or regular rate of compensation of such individual shall be determined under regulations prescribed by the Secretary; and

(B) such individual shall be treated as having paid the amount paid by such [domestic corporation] *American employer* which is equivalent to the tax imposed by section 3101.

(c) TERMINATION OF STATUS AS DEEMED EMPLOYEE NOT TO BE TREATED AS SEPARATION FROM SERVICE FOR PURPOSES OF CAPITAL GAIN PROVISIONS AND LIMITATION OF TAX.—For purposes of applying subsections (a)(2) and (e) of section 402, and section 403(a)(2) with respect to an individual who is treated as an employee of [a domestic corporation] *an American employer* under subsection (a), such individual shall not be considered as separated from the service of such [domestic corporation] *American employer* solely by reason of the fact that—

(1) the agreement entered into by such [domestic corporation] *American employer* under section 3121(l) which covers the employment of such individual is terminated under the provisions of such section,

(2) such individual becomes an employee of a foreign [subsidiary] *affiliate* with respect to which such agreement does not apply,

(3) such individual ceases to be an employee of the foreign [subsidiary] *affiliate* by reason of which he is treated as an employee of such [domestic corporation] *American employer,* if he becomes an employee of [another corporation controlled by such domestic corporation] *another entity in which such American employer has not less than a 10-percent interest (within the meaning of section 3121(l)(8)(B))* or

(4) the provision of the plan described in subsection (a)(2) is terminated.

(d) DEDUCTIBILITY OF CONTRIBUTIONS.—For purposes of applying sections 404 and 405(c) with respect to contributions made to or under a pension, profit-sharing, stock bonus, annuity, or bond purchase plan by [a domestic corporation] *an American employer,* or by another [corporation] *taxpayer* which is entitled to deduct its contributions under section 404(a)(3)(B), on behalf of an individual who is treated as an employee of such [domestic corporation] *American employer* under subsection (a)—

(1) except as provided in paragraph (2), no deduction shall be allowed to such [domestic corporation] *American employer* or to [any other corporation] *any other taxpayer* which is entitled to deduct its contributions under such sections,

(2) there shall be allowed as a deduction to the foreign [subsidiary] *affiliate* of which such individual is an employee an amount equal to the amount which (but for paragraph (1)) would be deductible under section 404 (or section 405(c)) by the [domestic corporation] *American employer* if he were an employee of the [domestic corporation] *American employer*, and

(3) any reference to compensation shall be considered to be a reference to the total compensation of such individual (determined with the application of subsection (b)(2)).

Any amount deductible by a foreign [subsidiary] *affiliate* under this subsection shall be deductible for its taxable year with or within which the taxable year of such [domestic corporation] *American employer* ends.

(e) TREATMENT AS EMPLOYEE UNDER RELATED PROVISIONS.—An individual who is treated as an employee of [a domestic corporation] *an American employer* under subsection (a) shall also be treated as an employee of such [domestic corporation,] *American employer*, with respect to the plan described in subsection (a)(2), for purposes of applying the following provisions of this title:

(1) Section 72(d) (relating to employees' annuities).

(2) Section 72(f) (relating to special rules for computing employees' contributions).

(3) Section 101(b) (relating to employees' death benefits).

(4) Section 2039 (relating to annuities).

(5) Section 2517 (relating to certain annuities under qualified plans).

SEC. 407. CERTAIN EMPLOYEES OF DOMESTIC SUBSIDIARIES ENGAGED IN BUSINESS OUTSIDE THE UNITED STATES.

(a) TREATMENT AS EMPLOYEES OF DOMESTIC PARENT CORPORATION.—

(1) IN GENERAL.—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of a domestic parent corporation, an individual who is a citizen *or resident* of the United States and who is an employee of a domestic subsidiary (within the meaning of paragraph (2)) of such domestic parent corporation shall be treated as an employee of such domestic parent corporation, if—

(A) the plan of such domestic parent corporation expressly provides for contributions or benefits for individuals who are citizens *or residents* of the United States and who are employees of its domestic subsidiaries; and

(B) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the domestic subsidiary.

(2) DEFINITIONS.—For purposes of this section—

(A) Domestic subsidiary.—A corporation shall be treated as a domestic subsidiary for any taxable year only if—

(i) such corporation is a domestic corporation 80 percent or more of the outstanding voting stock of which is owned by another domestic corporation;

(ii) 95 percent or more of its gross income for the three-year period immediately preceding the close of its taxable year which ends on or before the close of the taxable year of such other domestic corporation (or for such part of such period during which the corporation was in existence) was derived from sources without the United States; and

(iii) 90 percent or more of its gross income for such period (or such part) was derived from the active conduct of a trade or business.

If for the period (or part thereof) referred to in clauses (ii) and (iii) such corporation has no gross income, the provisions of clauses (ii) and (iii) shall be treated as satisfied if it is reasonable to anticipate that, with respect to the first taxable year thereafter for which such corporation has gross income, the provisions of such clauses will be satisfied.

(B) Domestic parent corporation.—The domestic parent corporation of any domestic subsidiary is the domestic corporation which owns 80 percent or more of the outstanding voting stock of such domestic subsidiary.

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Subpart B—Special Rules

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SEC. 415. LIMITATIONS ON BENEFITS AND CONTRIBUTION UNDER QUALIFIED PLANS.

(a) General Rule. * * *

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(c) Limitation for Defined Contribution Plans.—

(1) In general.—Contributions and other additions with respect to a participant exceed the limitation of this subsection if, when expressed as an annual addition (within the meaning of paragraph (2)) to the participant's account, such annual addition is greater than the lesser of—

(A) $30,000, or

(B) 25 percent of the participant's compensation.

(2) Annual addition.—For purposes of paragraph (1), the term "annual addition" means the sum for any year of—

(A) employer contributions,

(B) the lesser of—

(i) the amount of the employee contributions in excess of 6 percent of his compensation, or

(ii) one-half of the employee contributions, and

(C) forfeitures.

For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in sections 402(a)(5), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), and 409(b)(3)(C)) without regard to employee contributions to a simplified employee pension allowable as a deduction under section 219(a), and without regard to deductible employee contributions within the meaning of section 72(o)(5).

(3) Participant's compensation.—For purposes of paragraph (1)—

(A) In general.—The term "participant's compensation" means the compensation of the participant from the employer for the year.

(B) Special rule for self-employed individuals.—In the case of an employee within the meaning of section 401(c)(1), subparagraph (A) shall be applied by substituting "the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)" for "compensation of the participant from the employer".

(C) Special rules for permanent and total disability.—In the case of a participant—

(i) who is permanently and totally disabled (as defined in section **[**105(d)(4)**]** *37(e)(3)*),

(ii) who is not an officer, owner, or highly compensated, and

(iii) with respect to whom the employer elects, at such time and in such manner as the Secretary may prescribe, to have this subparagraph apply,

the term "participant's compensation" means the compensation the participant would have received for the year if the participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled. This subparagraph shall only apply if contributions made with respect to such participant are nonforfeitable when made.

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Subchapter N—Tax Based on Income From Sources Within or Without the United States

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PART I—DETERMINATION OF SOURCES OF INCOME

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SEC. 861. INCOME FROM SOURCES WITHIN THE UNITED STATES.

(a) Gross Income From Sources Within United States.—The following items of gross income shall be treated as income from sources within the United States:

(1) Interest.—* * *

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(8) Social Security Benefits.—Any social security benefit (as defined in section 86(d)).

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PART II—NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

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Subpart A—Nonresident Alien Individuals

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SEC. 871. TAX ON NONRESIDENT ALIEN INDIVIDUALS.

(a) Income Not Connected With United States Business—30 Percent Tax.—

(1) Income other than capital gains.—* * *

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(3) Taxation of social security benefits.—For purposes of this section and section 144—

(A) one-half of any social security benefit (as defined in section 86(d)) shall be included in gross income, and

(B) section 86 shall not apply.

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PART III—INCOME FROM SOURCES WITHOUT THE UNITED STATES

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Subpart A—Foreign Tax Credit

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SEC. 904. LIMITATION ON CREDIT.

(a) Limitation.— * * *

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(g) Coordination With Credit for the Elderly.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly *and the permanently and totally disabled*).

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CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

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SEC. 1401. RATE OF TAX.

[(a) Old-Age, Survivors, and Disability Insurance.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

[(1) in the case of any taxable year beginning before January 1, 1978, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year;

[(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

[(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

[(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1982, the tax shall be equal to 8.00 percent of the amount of the self-employment income for such taxable year;

[(5) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year;

[(6) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8.55 percent of the amount of the self-employment income for such taxable year;

[(7) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 9.30 percent of the amount of the self-employment income for such taxable year;

[(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

[(1) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

[(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

[(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 1.05 percent of the amount of the self-employment income for such taxable year;

[(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 1.30 percent of the amount of the self-employment income for such taxable year;

[(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

[(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year.]

(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.--In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

In the case of a taxable year

Beginning after:	*And before:*	*Percent:*
December 31, 1983	*January 1, 1988*	*11.40*
December 31, 1987	*January 1, 1990*	*12.12*
December 31, 1989	*January 1, 2015*	*12.40*
December 31, 2014		*12.88.*

(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

In the case of a taxable year

Beginning after:	*And before:*	*Percent:*
December 31, 1983	*January 1, 1985*	*2.60*
December 31, 1984	*January 1, 1986*	*2.70*
December 31, 1985		*2.90.*

(c) CREDIT AGAINST TAXES IMPOSED BY THIS SECTION.—

(1) IN GENERAL.—There shall be allowed as a credit against the taxes imposed by this section for any taxable year an amount equal to 1.8 percent (1.9 percent in the case of taxable years beginning after December 31, 1987) of the self-employment income of the income of the individual for such taxable year.

(2) ADDITIONAL CREDIT FOR 1984.—In addition to the credit allowed by paragraph (1), there shall be allowed as a credit against the taxes imposed by this section for any taxable year beginning during 1984 an amount equal to $\frac{3}{10}$ of 1 percent of the self-employment income of the individual for such taxable year.

[(c)] *(d)* RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.

SEC. 1402 DEFINITIONS.

(a) NET EARNINGS FROM SELF-EMPLOYMENT.—The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss descrbed in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) there shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceeding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity;

* * * * * * *

(11) [in the case of an individual described in section 911(d)(1)(B),] the exclusion from gross income provided by section 911(a)(1) shall not apply, and

* * * * * * *

(b) Self-Employment Income.—The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual, *Except as provided by an agreement under section 233 of the Social Security Act*) during any taxable year; except that such term shall not include—

(1) that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act*) which is effective for the calendar year in which such taxable year begins, minus (ii) the amount of the wages paid to such individual during such taxable years; or

(2) the net earnings from self-employment, if such net earning for the taxable year are less than $400.

For purposes of clause (1), the term "wages" (A) includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or under an agreement entered into pursuant to the provisions of section 3121 (l) (relating to coverage of citizens of the United States who are [employees of foreign subsidiaries of domestic corporations] *employees of foreign affiliates of American employers),* as would be wages under section 3121(a) if such services constituted employment under section 3121(b), (B) includes compensation which is subject to the tax imposed by section 3201 or 3211, and (C) includes, but only with respect to the tax imposed by section 1401(b), remuneration paid for medicare qualified Federal employment (as defined in section 3121(u)(2)) which is subject to the taxes imposed by sections 3101(b) and 3111(b). An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual.

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CHAPTER 3—WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS AND TAX-FREE CONVENANT BONDS

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SEC. 1441. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.

(a) General Rule—* * *

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(g) Cross Reference.—For provision treating one-half of social security benefits as subject to withholding under this section, see section 871(a)(3).

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Subtitle C—Employment Taxes and Collection of Income Tax at Source

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CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

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Subchapter A—Tax on Employees

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SEC. 3101. RATE OF TAX.

(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 312(a)) received by him with respect to employment (as defined in section 3121(b))—

[(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

[(2) with respect to wages received during the calendar year 1978, the rate shall be 5.05 percent;

[(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

[(4) with respect to wages received during the calendar year 1981, the rate shall be 5.35 percent;

[(5) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

[(6) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.70 percent;

[(7) with respect to wages received after December 31, 1989, the rate shall be 6.20 percent.]

In cases of wages received during:	***The rate shall be:***
1984, 1985, 1986, or 1987	*5.7 percent*
1988 or 1989	*6.06 percent*
1990 through 2014	*6.2 percent*
2015 or thereafter	*6.44 percent.*

* * * * * * *

Subchapter B—Tax on Employers

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SEC. 3111. RATE OF TAX.

(a) Old-Age, Survivors, and Disability Insurance.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a) and (t)) paid by him with respect to employment (as defined in section 3121(b))—

[(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

[(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

[(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

[(4) with respect to wages paid during the calendar year 1981, the rate shall be 5.35 percent;

[(5) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

[(6) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 5.70 percent; and

[(7) with respect to wages paid after December 31, 1989, the rate shall be 6.20 percent.]

In cases of wages received during:	***The rate shall be:***
1984, 1985, 1986, or 1987	*5.7 percent*
1988 or 1989	*6.06 percent*
1990 through 2014	*6.2 percent*
2015 or thereafter	*6.44 percent*

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Subchapter C—General Provisions

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SEC. 3121. DEFINITIONS.

(a) WAGES.—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) * * *

* * * * * * *

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trsut described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust,

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a),

(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a), or

(D) under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section **[**219**]** *219(b)(2)* for such payment;

* * * * * * *

[(9) any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62, if such employee did not work for the employer in the period for which such payment is made;**]**

* * * * * * *

(17) any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans); **[**or**]**

(18) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able is exclude such payment or benefit from income under section 127 or 129**[**.**]** *; or*

(19) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119.

Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this chapter. Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reasons of the parenthetical matter contained in subparagraph (B) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages.

* * * * * * *

(b) EMPLOYMENT.—For purposes of this chapter, the term "employment" means any service, of whatever nature, performed [either] (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen *or resident* of the United States as an employee for an American employer (as defined in subsection (h)), *or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act*; except that such term shall not include—

(1) service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended (7 U.S.C. 1461–1468), or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

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[(5) service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 3111 by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

[(6) (A) service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;]

(5) service performed in the employ of the United States or any instrumentality of the United States, if such service—

(A) would be excluded from the term "employment" for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before or

after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by law of the United States for employees of the Federal Government or members of the uniformed services;

except that this paragraph shall not apply with respect to—

(i) service performed as the President or Vice President of the United States,

(ii) service performed—

(I) in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code,

(II) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107(a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

(iii) service performed as the Chief Justice of the United States, an associate justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankruptcy judge,

(iv) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, or

(v) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

(6) service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

(A) in a penal institution of the United States by an inmate thereof;

(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

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(8)[(A)] service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this [subparagraph] *paragraph* shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under subsection (r) is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

[(B) service performed in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) which is exempt from income tax under section 501(a), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (k) (or the corresponding subsection of prior law) or deemed to have been so filed under paragraph (4) or (5) of such subsection, is in effect if such service is performed by an employee—

[(i) whose signature appears on the list filed (or deemed to have been filed) by such organization under subsection (k) (or the corresponding subsection of prior law),

[(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii) was filed (or deemed to have been filed), or

[(iii) who, after the calendar quarter in which the certificate was (or deemed to haved been filed) filed with respect to a group described in section 3121(k)(1(E), became a member of such group,

[except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in section 3121(k)(1)(E) with respect to which no certificate is (or is deemed to be) in effect;]

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(i) COMPUTATION OF WAGES IN CERTAIN CASES.—

(1) DOMESTIC SERVICE.—For purposes of this chapter, in the case of domestic service described in subsection (a)(7)(B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this chapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a)(7)(B).

(2) SERVICE IN THE UNIFORMED SERVICES.—For purposes of this chapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of

subsection (m)(1) are applicable, the term "wages" shall, subject to the provisions of subsection (a)(1) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act.

(3) PEACE CORPS VOLUNTEER SERVICE.—For puroses of this chapter, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 3121(p) are applicable, the term "wages" shall, subject to the provisions of subsection (a)(1) of this section, include as such individual's remuneration for such service only amounts paid pursuant to section 5(c) or 6(1) of the Peace Corps Act.

(4) SERVICE PERFORMED BY CERTAIN MEMBERS OF RELIGIOUS ORDERS.—For purposes of this chapter, in any case where an individual is a member of a religious order (as defined in subsection (r)(2)) performing service in the exercise of duties required by such order, and an election of coverage under subsection (r) is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of subsection (a)(1), include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than $100 a month.

(5) SERVICE PERFORMED BY CERTAIN RETIRED JUSTICES AND JUDGES.—For purposes of this chapter, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term "wages" shall, subject to the provisions of subsection (a)(1) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.

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[(k) EXEMPTION OF RELIGIOUS, CHARITABLE, AND CERTAIN OTHER ORGANIZATIONS.—

[(1) WAIVER OF EXEMPTION BY ORGANIZATION.—

[(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that it desires to have the insurance system established by title II of the Social Security Act extended to service performed by its employees. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee (if any) who concurs in the filing of the certificate. Such list may be amended at any time prior to the expiration of the twenty-fourth month following the calendar quarter in which the certificate is filed by filing with the prescribed official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter.

[(B) The certificate shall be in effect (for purposes of subsection (b)(8)(B) and for purposes of section 210(a)(8)(B) of the Social Security Act) for the period beginning with whichever of the following may be designated by the organization:

[(i) the first day of the calendar quarter in which the certificate if filed,

[(ii) the first day of the calendar quarter succeeding such quarter, or

[(iii) the first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

[(C) In the case of service performed by an employee whose name appears on a supplemental list filed after the first month following the calendar quarter in which the certificate is filed, the certificate shall be in effect (for purposes of subsection (b)(8)(B) and for purposes of section 210(a)(8)(B) of the Social Security Act) only with respect to service performed by such individual for the period beginning with the first day of the calendar quarter in which such supplemental list is filed.

[(D) The period for which a certificate filed pursuant to this subsection or the corresponding subsection of prior law is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving 2 years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than 8 years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this chapter.

[(E) If an organization described in subparagraph (A) employs both individuals who are in positions covered by a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof and individuals who are not in such positions, the organization shall divide its employees into two separate groups. One group shall consist of all employees who are in positions covered by such a fund or system and (i) are members of such fund or system, or (ii) are not members of such fund or system but are eligible to become members thereof; and the other group shall consist of all remaining employees. An organization which has so divided its employees into two groups may file a certificate pursuant to subparagraph (A) with respect to the employees in either group, or may file a separate certificate pursuant to such subparagraph with respect to the employees in each group.

[(F) If a certificate filed pursuant to this paragraph is effective for one or more calendar quarters prior to the quarter in which the certificate is filed, then—

[(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return or pay tax), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

[(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

[(2) TERMINATION OF WAIVER PERIOD BY SECRETARY.—If the Secretary finds that any organization which filed a certificate pursuant to this subsection or the corresponding subsection of prior law has failed to comply substantially with the requirements applicable with respect to the taxes imposed by this chapter or the corresponding provisions of prior law or is no longer able to comply with the requirements applicable with respect to the taxes imposed by this chapter, the Secretary shall give such organization not less than 60 days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Secretary of Health, Education, and Welfare.

[(3) NO RENEWAL OF WAIVER.—In the event the period covered by a certificate filed pursuant to this subsection or the corresponding subsection of prior law is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection.

[(4) CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.—

[(A) In any case where—

[(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph or, if later, as of the earliest date on which it satisfies clause (ii) of this subparagraph, but [(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B)(i)) of not less than three consecutive calendar quarters,

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective (subject to subparagraph (c)) on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate), or

[(B) Subparagraph (A) shall not apply with respect to any organization if—

[(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

[(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the first day of the calendar quarter other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976, or

[(iii) the organization, prior to the end of the period referred to in clause (ii) of such subparagraph (and, in the case of an organization organized on or before October 9, 1969, prior to October 19, 1976), had applied for a ruling or determination letter acknowledging it to be exempt from income tax under section 501(c)(3), and it subsequently received such ruling or determination letter and did not pay any taxes under sections 3101 and 3111 with respect to any employee with respect to any quarter ending after the twelfth month following the date of mailing or such ruling or determination letter and did not pay any such taxes with respect to any quarter beginning after the later of (I)

December 31, 1975 or (II) the date on which such ruling or determination letter was issued.

[(C) In the case of any organization which is deemed under this paragraph to have filed a valid waiver certificate under paragraph (1), if—

[(i) the period with respect to which the taxes imposed by sections 3101 and 3111 were paid by such organization (as described in subparagraph (A)(ii)) terminated prior to October 1, 1976, or

[(ii) the taxes imposed by sections 3101 and 3111 were not paid during the period referred to in clause (i) (whether such period has terminated or not) with respect to remuneration paid by such organization to individuals who became its employees after the close of the calendar quarter in which such period began,

[taxes under sections 3101 and 3111—

[(iii) in the case of an organization which meets the requirements of this subparagraph by reason of clause (i), with respect to remuneration paid by such organization after the termination of the period referred to in clause (i) and prior to July 1, 1977; or

[(iv) in the case of an organization which meets the requirements of this subparagraph by reason of clause (ii), with respect to remuneration paid prior to July 1, 1977, to individuals who became its employees after the close of the calendar quarter in which the period referred to in clause (i) began,

[which remain unpaid on the date of the enactment of this subparagraph, or which were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph, shall not be due or payable (or, if paid, shall be refunded); and the certificate which such organization is deemed under this paragraph to have filed shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 (which remain unpaid on the date of the enactment of this subparagraph, or were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph) are not due and payable (or are refunded) by reason of the preceding provisions of this subparagraph. In applying this subparagraph for purposes of title II of the Social Security Act, the period during which reports of wages subject to the taxes imposed by sections 3101 and 3111 were made by any organization may be conclusively treated as the period (described in subparagraph (A)(ii)) during which the taxes imposed by such sections were paid by such organization.

[(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

[(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph (B)(ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4)(A)(ii) was obtained prior to September 9, 1976; and

[(B) such organization has not, prior to April 1, 1978, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii)) and which is accompanied by the list described in paragraph (1)(A),

[such organization shall be deemed, for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on April 1, 1978, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on April 1, 1978, shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary.

[(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved (except a provided in paragraph (4)(c)) shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

[(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1)(A), and in paragraph (1)(C), shall apply to the extent prescribed by the Secretary;

[(B) the provisions of paragraph (1)(E) shall not apply unless the taxes described in paragraph (4)(A)(ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

[(C) the action of the organization in obtaining the refund or credit described in paragraph (5)(A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3). Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

[(7) BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5)(A) has not filed a valid waiver certificate under paragraph (1) prior to April 1, 1978, and is accordingly deemed under paragraph (5) to have filed such a certificate on April 1, 1978, the taxes due under section 3101, with respect to services constituting employment by reason of such certificate for any period prior to that date (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5)(A)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

[(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where—

[(a) an organization is deemed under paragraph (4) to have filed a valid waiver certificate under paragraph (1), but the applicable period described in paragraph (4)(A)(ii) has terminated and part or all of the taxes imposed by sections 3101 and 3111 with respect to remuneration paid by such organization to its employees after the close of such period remains payable notwithstanding paragraph (4)(C), or

[(B) an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by March 31, 1978, as described in paragraph (5)(B), or (not having filed such a certificate by that date) is deemed under paragraph (5) to have filed such a certificate on April 1, 1978, or

[(C) an individual files a request under section 3 of Public Law 94-563, or under section 312(c) of the Social Security Amendments of 1977, to have service treated as constituting remuneration for employment (as defined in section 3121(b) and in section 210(a) of the Social Security Act).

[the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs, or with respect to service constituting employment by reason of such request, may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.]

[(l) AGREEMENTS ENTERED INTO BY DOMESTIC CORPORATION WITH RESPECT TO FOREIGN SUBSIDIARIES.—

[(1) AGREEMENT WITH RESPECT TO CERTAIN EMPLOYEES OF FOREIGN SUBSIDIARIES.—The Secretary shall, at the request of any domestic corporation, enter into an agreement (in such form and manner as may be prescribed by the Secretary) with any such corporation which desires to have the insurance system established by title II of the Social Security Act extended to service performed outside the United States in the employ of any one or more of its foreign subsidiaries (as defined in paragraph (8)) by all employees who are citizens of the United States, except that the agreement shall not be applicable to any service performed by, or remuneration paid to, an employee if such service or remuneration would be excluded from the term "employment" or "wages", as defined in this section, had the service been performed in the United States.]

(l) AGREEMENTS ENTERED INTO BY AMERICAN EMPLOYERS WITH RESPECT TO FOREIGN AFFILIATES.—

(1) AGREEMENT WITH RESPECT TO CERTAIN EMPLOYEES OF FOREIGN AFFILIATE.—The Secretary shall, at the American employer's request, enter into an agreement (in such manner and form as may be prescribed by the Secretary) with any American employer (as defined in subsection (h)) who desires to have the insurance system established by title II of the Social Security Act extended to service performed outside the United States in the employ of any 1 or more of such employer's foreign affiliates (as defined in paragraph (8)) by all employees who are citizens or residents of the United States, except that the agreement shall not apply to any service performed by, or remuneration paid to, an employee if such service or remuneration would be excluded from the term "employement" or "wages", as defined in this section, had the service been performed in the United States. Such agreement may be amended at any time so as to be made applicable, in the same manner and under the same conditions, with respect to any other foreign [subsidiary] *affiliate* of such [domestic corporation] *American employer.* Such agreement shall be applicable with respect to citizens *or residents* of the United States who, on or after the effective date of the agreement, are employees of and perform services outside the United States for any foreign [subsidiary] *affiliate* specified in the agreement. Such agreement shall provide—

(A) that the [domestic corporation] *American employer* shall pay to the Secretary, at such time or times as the Secretary may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 (including amounts equivalent to the interest, additions to the taxes, additional amounts, and penalties which would be applicable) with respect to the remuneration which would be wages if the services covered by the agreement constituted employment as defined in this section; and

(B) that the [domestic corporation] *American employer* will comply with such regulations relating to payments and reports as the Secretary may prescribe to carry out the purposes of this subsection.

(2) EFFECTIVE PERIOD OF AGREEMENT.—An agreement entered into pursuant to paragraph (1) shall be in effect for the period beginning with the first day of the calendar quarter in which such agreement is entered into or the first day of the succeeding calendar quarter, as may be specified in the agreement; except that in case such agreement is amended to include the services performed for any other [subsidies] *affiliate* and such amendment is executed after the first month following the first calendar quarter for which the agreement is in effect, the agreement shall be in effect with respect to service performed for such other [subsidy] *affiliate* only after the calendar quarter in which such amendment is executed.

(3) TERMINATION OF PERIOD BY A [DOMESTIC CORPORATION] *AMERICAN EMPLOYER*.—The period for which an agreement entered into pursuant to paragraph (1) of this subsection is effective may be terminated with respect to any one or more of its foreign [subsidiaries] *affiliates* by the [domestic corporation,] *American employer,* effective at the end of a calendar quarter, upon giving two years' advance notice in writing, but only if, at the time of the receipt of such notice, the agreement has been in effect for a period of not less than eight years. The notice of termination may be revoked by the [domestic corporation] *American employer* by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner as may be prescribed by regulations. Notwithstanding any other provision of this subsection, the period for which any such agreement is effective with respect to any foreign [corporation] *entity* shall terminate at the end [illegible] any calendar quarter in which the foreign [corporation,] [illegible] at any time in such quarter, ceases to be a foreign [su[illegible] *affiliate* as defined in paragraph (8).

(4) TERMINATION OF [illegible] BY SECRETARY.—If the Secretary finds that any [do[illegible]poration] *American employer* which entered into a[illegible]nt pursuant to this subsection has failed to compl[illegible]antially with the terms of such agreement, the Secretary shall give such [domestic corporation] *American employer* not less than sixty days' advance notice in writing and the period covered by such agreement will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the [domestic corporation] *American employer.* No notice of termination or of revocation thereof shall be given under this paragraph to a [domestic corporation] *American employer* without the prior concurrence of the Secretary of Health, Education, and Welfare.

(5) NO RENEWAL OF AGREEMENT.—If any agreement entered into pursuant to paragraph (1) of this subsection is terminated in its entirety (A) by a notice of termination filed by the [domestic corporation] *American employer* pursuant to paragraph (3), or (B) by a notice of termination given by the Secretary

pursuant to paragraph (4), the [domestic corporation] *American employer* may not again enter into an agreement pursuant to paragraph (1). If any such agreement is terminated with respect to any foreign [subsidiary,] *affiliate,* such agreement may not thereafter be amended so as again to make it applicable with respect to such [subsidiary.] *affiliate.*

(6) DEPOSITS IN TRUST FUNDS.—For purposes of section 201 of the Social Security Act, relating to appropriations to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, such remuneration—

(A) paid for services covered by an agreement entered into pursuant to paragraph (1) as would be wages if the services constituted employment, and

(B) as is reported to the Secretary pursuant to the provisions of such agreement or of the regulations issued under this subsection,

shall be considered wages subject to the taxes imposed by this chapter.

(7) OVERPAYMENTS AND UNDERPAYMENTS.—

(A) If more or less than the correct amount due under an agreement entered into pursuant to this subsection is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be required by regulations prescribed by the Secretary.

(B) If an overpayment cannot be adjusted under subparagraph (A), the amount thereof shall be paid by the Secretary, through the Fiscal Service of the Treasury Department, but only if a claim for such overpayment is filed with the Secretary within two years from the time such overpayment was made.

[(8) DEFINITION OF FOREIGN SUBSIDIARY.—For purposes of this subsection and section 210(a) of the Social Security Act, a foreign [subsidiary] *affiliate* of a [domestic corporation] *American employer* is—

[(A) a foreign corporation not less than 20 percent of the voting stock of which is owned by such domestic corporation; or

[(B) a foreign corporation more than 50 percent of the voting stock of which is owned by the foreign corporation described in subparagraph (A).]

(8) FOREIGN AFFILIATE DEFINED.—For purposes of this subsection and section 210(a) of the Social Security Act—

(A) IN GENERAL.—A foreign affiliate of an American employer is any foreign entity in which such American employer has not less than a 10-percent interest.

(B) DETERMINATION OF 10-PERCENT INTEREST.—For purposes of subparagraph (A), an American employer has a 10-percent interest in any entity if such employer has such an interest directly (or through 1 or more entities)—

(i) in the case of a corporation, in the voting stock thereof, and

(ii) in the case of any other entity, in the profits thereof.

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(9) [DOMESTIC CORPORATION *AMERICAN EMPLOYER* AS SEPARATE ENTITY.—Each [domestic corporation] *American employer* which enters into an agreement pursuant to paragraph (1) of this subsection shall, for purposes of this subsection and section 6413(c)(2)(C), relating to special refunds in the case of employees of certain [foreign corporations] *foreign entities,* be considered an employer in its capacity as a party to such agreement separate and distinct from its identity as a person employing individuals on its own account.

(10) REGULATIONS.—Regulations of the Secretary to carry out the purposes of this subsection shall be designed to make the requirements imposed on [domestic corporations] *American employers* with respect to services covered by an agreement entered into pursuant to this subsection the same, so far as practicable, as those imposed upon employers pursuant to this title with respect to the taxes imposed by this chapter.

* * * * * * *

(r) ELECTION OF COVERAGE BY RELIGIOUS ORDERS.—

(1) CERTIFICATE OF ELECTION BY ORDER.—* * *

* * * * * * *

(3) EFFECTIVE DATE FOR ELECTION.—(A) A certificate of election of coverage shall be in effect, for purposes of [subsection (b)(8)(A)] *subsection (b)(8)* and for purposes of section 210(a)(8)[(A)] of the Social Security Act, for the period beginning with whichever of the following may be designated by the order or subdivision thereof:

(i) the first day of the calendar quarter in which the certificate is filed,

(ii) the first day of the calendar quarter succeeding such quarter, or

(iii) the first day of any calendar quarter preceding the calendar in which the certificate is filed, except that such date may not be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

Whenever a date is designated under clause (iii), the election shall apply to services performed before the quarter in which the certificate is filed only if the member performing such services was a member at the time such services were performed and is living on the first day of the quarter in which such certificate is filed.

(B) If a certificate of election filed pursuant to this subsection is effective for one or more calendar quarters prior to the quarter in which such certificate is filed, then—

(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(4) COORDINATION WITH COVERAGE OF LAY EMPLOYEES.—Notwithstanding the preceding provisions of this subsection, no certificate of election shall become effective with respect to an order or subdivision thereof, unless—

[(A) if at the time the certificate of election is filed a certificate of waiver of exemption under subsection (k) is in effect with respect to such order or subdivision, such order or subdivision amends such certificate of waiver of exemption (in such form and manner as may be prescribed by regulation made under this chapter) to provide that it may not be revoked, or

[(B) if at the time the certificate of election is filed a certificate of waiver of exemption under such subsection is not in effect with respect to such order or subdivision, such order or subdivision files such certificate of waiver of exemption under the provisions of such subsection except that such certificate of waiver of exemption cannot become effective at a later date than the certificate of election and such certificate of waiver of exemption must specify that such certificate of waiver of exemption may not be revoked. The certificate of waiver of exemption required under this subparagraph shall be filed notwithstanding the provisions of subsection (k)(3).]

* * * * * * *

(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL EMPLOYMENT.—

[(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

[(A) paragraph (6) of subsection (b) shall be applied without regard to subparagraphs (A), (B), and (C) (i), (ii), and (vi) thereof, and

[(B) paragraph (5) of subsection (b) (and the provisions of law referred to therein) shall not apply.]

(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.

* * * * * * *

(v) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—Nothing in any paragraph of subsection (a) (other than paragraph (1)) shall exclude from the term "wages" any employer contribution—

(1) under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8),

(2) under a cafeteria plan (as defined in section 125(d)) to the extent the employee had the right to choose cash, property, or

other benefits which would be wages for purposes of this chapter, or

(3) for an annuity contract described in section 403(b).

* * * * * * *

CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

SEC. 3304. APPROVAL OF STATE LAWS.

(a) REQUIREMENTS.—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

(1) all compensation is to be paid through public employment offices or such other agencies as the Secretary of Labor may approve;

(2) no compensation shall be payable with respect to any day of unemployment occurring within 2 years after the first day of the first period with respect to which contributions are required;

(3) all money received in the unemployment fund shall (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305(b)) immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (42 U.S.C. 1104);

(4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b); except that—

(A) an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration; **[and]**

(B) the amounts specified by section 903(c)(2) of the Social Security Act may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices; *and*

(C) nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;

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CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE

Sec. 3501. Collection and payment of taxes.
Sec. 3502. Nondeductibility of taxes in computing taxable income.
Sec. 3503. Erroneous payments.
Sec. 3504. Acts to be performed by agents.
Sec. 3505. Liability of third parties paying or providing for wages.
Sec. 3506. Individuals providing companion sitting placement services.
Sec. 3507. Advance payment of earned income credit.
Sec. 3508. Treatment of real estate agents and direct sellers.
Sec. 3509. Determination of employer's liability for certain employment taxes.
Sec. 3510. Credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984.

* * * * * * *

SEC. 3510. CREDIT FOR INCREASED SOCIAL SECURITY EMPLOYEE TAXES AND RAILROAD RETIREMENT TIER 1 EMPLOYEE TAXES IMPOSED DURING 1984.

(a) General Rule.—There shall be allowed as a credit against the tax imposed by section 3101(a) on wages received during 1984 an amount equal to $^{3}/_{10}$ of 1 percent of the wages so received.

(b) Time Credit Allowed.—The credit under subsection (a) shall be taken into account in determining the amount of the tax deducted under section 3102(a).

(c) Wages.—For purposes of this section, the term "wages" has the meaning given to such term by section 3121(a).

(d) Application to Agreements Under Section 218 of the Social Security Act.—For purposes of determining amounts equivalent to the tax imposed by section 3101(a) with respect to remuneration which—

(1) is covered by an agreement under section 218 of the Social Security Act, and

(2) is paid during 1984,

the credit allowed by subsection (a) shall be taken into account. A similar rule shall also apply in the case of an agreement under section 3121(l).

(e) Credit Against Railroad Retirement Employee and Employee Representative Taxes.—

(1) In general.—There shall be allowed as a credit against the taxes imposed by sections 3201(a) and 3211(a) on compensation paid during 1984 and subject to such taxes an amount equal to $^{3}/_{10}$ of 1 percent of such compensation.

(2) Time credit allowed. The credit under paragraph (1) shall be taken into account in determining the amount of the tax deducted under section 3202(a) (or the amount of the tax under section 3211(a)).

(3) Compensation.—For purposes of this subsection, the term "compensation" has the meaning given to such term by section 3231(e).

(f) Coordination With Section 6413(c).—For purposes of subsection (c) of section 6413, in determining the amount of the tax im-

posed by section 3101 or 3201, any credit allowed by this section shall be taken into account.

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART III—INFORMATION RETURNS

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Subpart B—Information Concerning Transactions With Other Persons

Sec. 6041. Information at source.
Sec. 6041A. Returns regarding payments of remuneration for services and direct sales.
Sec. 6042. Returns regarding payments of dividends and corporate earnings and profits.
Sec. 6043. Returns regarding liquidation, dissolution, termination, or contraction.
Sec. 6044. Returns regarding payments of patronage dividends.
Sec. 6045. Returns of brokers.
Sec. 6046. Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.
Sec. 6046A. Returns as to interests in foreign partnerships.
Sec. 6047. Information relating to certain trusts and annuity and bond purchase plans.
Sec. 6048. Returns as to certain foreign trusts.
Sec. 6049. Returns regarding payments of interest.
Sec. 6050A. Reporting requirements of certain fishing boat operators.
Sec. 6050B. Returns relating to unemployment compensation.
Sec. 6050C. Information regarding windfall profit tax on domestic crude oil.
Sec. 605D. Returns relating to energy grants and financing.
Sec. 605E. State and local income tax refunds.
Sec. 6050F. Returns relating to social security benefits.

* * * * * * *

SEC. 6050F. RETURNS RELATING TO SOCIAL SECURITY BENEFITS.

(a) Requirement of Reporting.—The appropriate Federal official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

(1) the—

(A) aggregate amount of social security benefits paid with respect to any individual during any calendar year,

(B) aggregate amount of social security benefits repaid by such individual during calendar year, and

(C) aggregate reduction under section 224 of the Social Security Act (or under section 3(a)(1) of the Railroad Retirement Act of 1974) in benefits which would otherwise have been paid to such individual during the calendar year on

account of amounts received under a workmen's compensation act, and

(2) the name and address of such individual.

(b) Statements To Be Furnished To Individuals With Respect To Whom Information Is Furnished.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

(1) the name of the agency making the payments, and

(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(c) Definitions.—For purposes of this section—

(1) Appropriate federal official.—The term "appropriate Federal official" means—

(A) the Secretary of Health and Human Services in the case of social security benefits described in section 86(d)(1)(A), and

(B) the Railroad Retirement Board in the case of social security benefits described in section 86(d)(1)(B).

(2) Social security benefit.—The term "social security benefit" has the meaning given to such term by section 86(d)(1).

* * * * * * *

Subchapter B—Miscellaneous Provisions

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SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) General Rule.— * * *

* * * * * * *

(h) Disclosure to Certain Federal Officers and Employees for Purposes of Tax Administration, Etc.—

(1) Department of the treasury.—Returns and return information shall, without written request, be open to inspection by or disclosure to offices and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

* * * * * * *

(6) Withholding of tax from social security benefits.—Upon written request, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board for purposes of carrying out its responsi-

bilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d)).

* * * * * * *

(p) PROCEDURE AND RECORDKEEPING.—

(1) MANNER, TIME, AND PLACE OF INSPECTIONS.— * * *

* * * * * * *

(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), *(h)(6),* (i)(1), (2), (3), or (5), (j)(1) or (2), (l)(1), (2), (3), or (5), or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), or (7) [or 8] shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6) or (7) [or 8], return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

(ii) in the case of an agency described in subsections (h)(2), *(h)(6),* (i)(1), (2), (3), or (5), (j)(1) or (2). (l)(1), (2), (3), or (5), or (o)(1), or the General Accounting Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information,

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under subsection (m)(2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency).

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

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SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C.

(a) ADJUSTMENT OF TAX.—* * *

* * * * * * *

(c) SPECIAL REFUNDS.—

(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(c)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds

the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term "wages" as used in this paragraph shall, for purposes of this paragraph, include "compensation" as defined in section 3231(e).

(2) Applicapility in Case of Federal and State Employees, employees of certain foreign [corporations,] *affiliates,* and governmental employees in Guam, American Samoa, and the District of Columbia.—

(A) Federal employees.—In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes, for purposes of this subsection, the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

(B) State employees.—For purposes of this subsection, in the case of remuneration received during any calendar year, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term "tax" or "tax imposed by section 3101" includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) Employees of certain foreign [corporations] *affiliates.*—For purposes of paragraph (1) of this subsection, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 3121(1) as would be wages if such services constituted employment; the term "employer" includes any [domestic corporation] *American employer* which has entered into an agreement pursuant to section 3121(1); the term "tax" or "tax imposed by section 3101" includes, in the case of services covered by an agreement entered into pursuant to section 3121(1), an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121(1) has been paid to the Secretary.

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CHAPTER 80—GENERAL RULES

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Subchapter B—Effective Date and Related Provisions

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SEC. 7871. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES.

(a) GENERAL RULE.—An Indian tribal government shall be treated as a State—

(1) for purposes of determining whether and in what amount any contribution or transfer to or for the use of such government (or a political subdivision thereof) is deductible under—

(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers of public, charitable, and religious uses), or

(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

(2) subject to subsection (b), for purposes of any exemption from, credit or refund of, or payment with respect to, an excise tax imposed by—

(A) chapter 31 (relating to tax on special fuels),

(B) chapter 32 (relating to manufacturers excise taxes),

(C) subchapter B of chapter 33 (relating to communications excise tax), or

(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

(3) for purposes of section 164 (relating to deduction for taxes);

(4) subject to subsection (c), for purposes of section 103 (relating to interest on certain governmental obligations);

(5) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions);

(6) for purposes of—

[(A) section 87(e)(9)(A) (relating to certain public retirement systems),]

[(B)] *(A)* section 41(c)(4) (defining State for purposes of credit for contribution to candidates for public offices),

[(C)] *(B)* section 117(b)(2)(A) (relating to scholarships and fellowship grants), [(D)] *(C)* section 403(B)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities); and

* * * * * * *

SECTION 3 OF THE ACT OF DECEMBER 29, 1981

AN ACT To Amend the Omnibus Reconciliation Act of 1981 to Restore Minimum Benefits Under the Social Security Act

* * * * * * *

EXTENSION OF COVERAGE TO FIRST SIX MONTHS OF SICK PAY

SEC. 3. (a) * * *

* * * * * * *

(d)(1) The regulations prescribed under the last sentence of section 3121(a) of the Internal Revenue Code of 1954, and the regulations prescribed under subparagraph (D) of section 3231(e)(4) of such Code, shall provide procedures under which, if (with respect to any employee) the third party promptly—

(A) withholds the employee portion of the taxes involved,

(B) deposits such portion under section 6302 of such Code, and

(C) notifies the employer of the amount of the wages or compensation involved,

the employer (and not the third party) shall be liable for the employer portion of the taxes involved and for meeting the requirements of section 6051 of such Code (relating to receipts for employees) with respect to the wages or compensation involved.

(2) For purposes of paragraph (1)—

(A) the term "employer" means the employer for whom services are normally rendered,

(B) the term "taxes involved" means, in the case of any employee, the taxes under chapters 21 and 22 which are payable solely by reason of the parenthetical matter contained in subparagraph (B) of section 3121(a)(2) of such Code, or solely by reason of paragraph (4) of section 3231(e) of such Code, [and]

(C) the term "wages or compensation involved" means, in the case of any employee, wages or compensation with respect to which taxes described in subparagraph (B) and imposed[.] *, and*

(D) in the case of a multiemployer plan, to the extent provided in regulations prescribed under paragraph (1), such plan shall be treated as the agent of the employers for whom services are normally rendered.

SECTION 602 OF THE FEDERAL SUPPLEMENTAL COMPENSATION ACT OF 1982

FEDERAL-STATE AGREEMENTS

SEC. 602. (a) * * *

* * * * * * *

(d) For purposes of any agreement under this subtitle—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this subtitle or with the regulations of the Secretary promulgated to carry out this subtitle; and

(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (a) the amount established in such account for such individual, or (b) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, an amount equal to his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year, multiplied by the number applicable under ⟦subsection (e)(2)(A)(ii)⟧ *subparagraph (A)(ii) or (C)(ii)(II) of subsection (e)(2)* in the State in which such individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim.

Solely for purposes of paragraph (2), the amendment made by section 2404(a) of the Omnibus Budget Reconciliation Act of 1981 shall be deemed to be in effect for all weeks beginning on or after September 12, 1982.

(e)(1) Any agreement under this subtitle with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

⟦(2)(A) Except as otherwise provided in this paragraph, the amount established in such account for any individual shall be equal to the lesser of—

⟦(i) 65 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

⟦(ii) 8 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State

Extended Unemployment Compensation Act of 1970) for his benefit year.

[(B) In the case of any State, subparagraph (A) shall be applied—

[(i) with respect to weeks during a higher unemployment period, by substituting "16" for "8" in clause (ii) thereof;

[(ii) with respect to weeks which are not during a higher unemployment period and which are weeks beginning on or after the first week of an extended benefit period (which was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 for any week beginning on or after June 1, 1982, on or before the date of the enactment of the Highway Revenue Act of 1982, and before the week for which the compensation is paid), by substituting "14" for "8" in clause (ii) thereof;

[(iii) with respect to weeks during a high unemployment period, or which would be weeks described in clause (ii) except that the extended benefit period began after the date of enactment of the Highway Revenue Act of 1982, by substituting "12" for "8" in clause (ii) thereof; and

[(iv) with respect to weeks during an intermediate unemployment period, by substituting "10" for "8".

[(C) For purposes of subparagraph (B), the term "higher unemployment period" means, with respect to any State, the period—

[(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 6.0 percent, and

[(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 6.0 percent;

except that no higher unemployment period shall last for a period of less than 4 weeks.

[(D) For purposes of subparagraph (B), the term "high unemployment period" means, with respect to any State, the period—

[(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 4.5 percent but is less than 6.0 percent, and

[(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 4.5 percent or equals or exceeds 6.0 percent;

except that no high unemployment period shall last for a period of less than 4 weeks unless such State enters a higher unemployment period or a period described in subparagraph (B)(ii).

[(E) For purposes of subparagraph (B), the term "intermediate unemployment period" means with respect to any State, the period—

[(i) which begins with the third week after the first week in which the rate of insured unemployment in the state for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent but is less than 4.5 percent, and

[(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent or equals or exceeds 4.5 percent;

except that no intermediate unemployment period shall last for a period of less than 4 weeks unless such State enters a high unemployment period, a higher unemployment period, or a period described in subparagraph (B)(ii) or (iii).

[(F) For purposes of this subsection, the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compansation Act of 1970.]

(2)(A) In the case of any account from which Federal supplemental compensation was first payable to an individual for a week beginning after March 31, 1983, the amount established in such account shall be equal to the lesser of—

(i) 65 per centum of the total amount of regular compensation (including dependent's allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

(ii) the applicable limit determined under the following table times his average weekly benefit amount for his benefit year.

In the case of weeks during a:	***The applicable limit is:***
6-percent period	*14*
5-percent period	*13*
4.5-percent period	*11*
3.5-percent period	*10*
Low-unemployment period	*8*

(B) In the case of any account from which Federal supplemental compensation was payable to an individual for a week beginning before April 1, 1983, the amount established in such account shall be equal to the lesser of the subparagraph (A) entitlement or the sum of—

(i) the subparagraph (A) entitlement reduced (but not below zero) by the aggregate amount of Federal supplemental compensation paid to such individual for weeks beginning before April 1, 1983, plus

(ii) such individual's additional entitlement.

(C) For purposes of subparagraph (B) and this subparagraph—

(i) The term "subparagraph (A) entitlement" means the amount which would have been established in the account if subparagraph (A) had applied to such account.

(ii) The term "additional entitlement" means the lessor of—

(I) three-fourths of the subparagraph (A) entitlement, or

(II) the applicable limit determined under the following table times the individuals's average weekly benefit amount for his benefit year.

In the case of weeks during a:	*The applicable limit is:*
6-percent period	*10*
5-percent period	*8*
4.5-percent period	*8*
3.5-percent period	*6*
Low-employment period	*6*

(D) Except as provided in subparagraph (B)(i), for purposes of determining the amount of Federal supplemental compensation payable for weeks beginning after March 31, 1983, from an account described in subparagraph (B), no reduction in such account shall be made by reason of any Federal supplemental compensation paid to the individual for weeks beginning before April 1, 1983.

(3)(A) For purposes of this subsection, the terms "6 percent period", "5 percent period", "4.5 percent period", "3.5 percent period" and "low unemployment period" mean, with respect to any State, the period which—

(i) begins with the 3d week after the 1st week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks falls in the applicable range, and

(ii) ends with the 3d week after the 1st week in which the rate of insured unemployment for the period consisting of such week and the immediately preceding 12 weeks does not fall within the applicable range.

(B) For purposes of subparagraph (A), the applicable range is as follows:

In the case of a:	*The applicable range is:*
6-percent period	*A rate equal to or exceeding 6 percent*
5-percent period	*A rate equal to or exceeding 5 percent but less than 6 percent*
4.5-percent period	*A rate equal to or exceeding 4.5 percent but less than 5 percent*
3.5-percent period	*A rate equal to or exceeding 3.5 percent but less than 4.5 percent*
Low-employment period	*A rate less than 3.5 percent*

(C) No 6-percent period, 5-percent period, 4.5-percent period, or 3.5-percent period, as the case may be, shall last for a period of less than 4 weeks unless the State enters a period with a higher percentage designation.

(D) For purpose of this subsection—

(i) The rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

(ii) The amount of an individual's average weekly benefit amount shall be determined in the same manner as determined for purposes of section 202(b)(1)(C) of such Act.

[(3)**]** *(4)* The amount of Federal supplemental compensation payable to an eligible individual shall not exceed the amount in such individual's account established under this subsection.

(5)(A) Except as provided in subparagraph (B), the maximum amount of Federal supplemental compensation payable to an indi-

vidual shall not be reduced by reason of any trade readjustment allowances to which the individual was entitled under the Trade Act of 1974.

(B) If an individual received any trade readjustment allowance under the Trade Act of 1974 in respect of any benefit year, the maximum amount of Federal supplemental compensation payable under this subtitle in respect of such benefit year shall be reduced (but not below zero) so that (to the extent possible by making such a reduction) the aggregate amount of—

(i) regular compensation,
(ii) extended compensation,
(iii) trade readjustment allowances, and
(iv) Federal supplemental compensation,

payable in respect of such benefit year does not exceed the aggregate amount which would have been so payable had the individual not been entitled to any trade readjustment allowance.

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VII. ADDITIONAL VIEWS OF HON. KENT HANCE

I supported the Committee bill and voted to report this legislation favorably to the full House of Representatives. Legislation is badly needed to keep the Social Security system from going bankrupt and to alleviate the fears of our nation's elderly. The Chairman of the Subcommittee, Mr. Pickle, and the Chairman of the full Committee, Mr. Rostenkowski, are to be commended for their prompt and comprehensive action to address one of the most important problems facing our country today. That this legislation was voted out of Committee by such a wide, bipartisan margin is a tribute to their leadership.

My support of this bill in Committee was the result of assurances that a floor amendment would be made in order that would solve the long-term financial problems of Social Security without further increases in the payroll tax. My reservations about the Committee bill as reported relate primarily to the increases in the payroll tax rates contained in this bill. The payroll tax is the most regressive federal tax, and as such creates the greatest financial burden on the low and middle income taxpayer. In addition, it creates a direct disincentive for increased employment by our nation's businesses.

It is important that we as a nation take care of our elderly; however, we must not lose sight of our nation's low and middle income working men and women. Over the past thirty years, the percent of individual income paid in federal taxes has increased dramatically. This increase, however, has been by far the greatest for low and middle income families. The primary reason for this is the rapid growth in the Social Security payroll tax over the years. The payroll tax is inherently regressive because effective tax rates are much higher for the poor than for the rich.

The group of working Americans most affected by this legislation in the immediate future is the self-employed. On January 1, 1984, the self-employed would experience a huge increase in the payroll tax rate under this bill. While the Committee adopted an amendment I offered that will reduce this burden for low and middle income self-employed individuals, the tax increases proposed are still substantial.

I intend to support the floor amendment which will address the long-term problem of Social Security by gradually raising the retirement age by one month a year for a 24-year period. The amendment only reflects the current demographic reality in the U.S. In 1940 when the first Social Security benefit checks were paid out, the average life expectancy was 62.9 years of age. By 1980, the average life expectancy had increased by more than ten full years to 73.8 years of age, and this upward trend will assuredly continue.

We should resist the "quick-fix" solution of raising the payroll tax rate in the far distant future for subsequent generations to pay. This approach will increase the tax burden on future working

Americans and does not address the basic financial and demographic problems facing the Social Security system. The Committee bill is an important, positive step toward addressing the Social Security problem, but it should be improved on the House floor.

KENT HANCE.

VIII. DISSENTING VIEWS OF THE HONORABLE BILL ARCHER AND THE HONORABLE PHILIP M. CRANE

In the coming years, this Committee bill may be remembered more for opportunities lost than for advantages gained in resolving the precarious financial condition of the Social Security system.

Its greatest advantage is that of easing the 98th Congress around the delicate problem of trust fund insolvency this summer. Beyond that point, the bill holds little assurance of anything except higher taxes, razor-thin margins of safety in trust fund levels in the near term, and perpetual demands for the infusion of general revenues into the system.

For the past two years, we have been in a position to make constructive reforms in Social Security to ensure its solvency and credibility, both now and in the future. We could have responded to the need long before now. All that was missing was the will of Congress and its leadership. We repeatedly dodged the issue.

In 1981, when the Committee's Subcommittee on Social Security was poised to produce a bipartisan bill, the House leadership barred further progress. When the Administration offered its own comprehensive solution, it was rejected out of hand, largely because of a single provision which could have been changed without damaging the overall proposal. Congress did not want to deal with Social Security.

Finally, to break the stalemate, the President established the National Commission on Social Security Reform to study the issue and make recommendations for reforms. We watched with growing unrest as the Commission failed to come to grips with the problem. Rather than fulfill the "reform" element of its task, the Commission ultimately allowed its recommendations to be dictated by political expediency. Instead of making recommendations based on a collective understanding of how best to solve Social Security's financial problems, the Commission based its recommendations on what twelve of its members considered to be the politically convenient way to approach the problems. As a result, the financial symptoms were dealt with, not the problems themselves. The choice was made to close the funding gap almost exclusively with additional revenues.

The fundamental structural deficiencies of Social Security were not addressed. The Commission's recommendations, however, gave Congress the opportunity it sought to avoid the politically difficult task of facing that issue. We were spared the often uncomfortable role of statesmen.

Had the Commission not submitted any specific recommendations we believe Congress could have, and would have, sought structural reforms in the system. As it is, the recommendations encouraged Members of Congress to turn their backs on basic principles which so many of our colleagues have espoused throughout their careers.

The fundamental "earned right" concept has been shattered by the introduction of a means test, in the method by which benefits are taxed. The self-sustaining principles of Social Security have been destroyed by the overwhelming use of general revenues in this bill. Any chance to return Social Security to its intended role as a basic floor of protection to supplement other retirement savings has been lost.

One of the most offensive features of the Committee bill is the taxation of benefits for individuals with $25,000 in total income and couples with $32,000. The bill penalizes those who save, and rewards those who do not. It penalizes a disabled individual by taxing his benefits if his spouse takes a job to help pay for his special needs, thus raising the family income above the tax threshold. For some individuals now at the earnings limitation level, the combination of taxes and loss of benefits resulting from additional earnings could actually exceed 100 percent of those earnings. This is a terrible disincentive for those who otherwise want to continue working to supplement their income.

There is a great inconsistency in a Congress which on the one hand encourages people to save for their retirement through Individual Retirement accounts and pension programs and on the other hand reduces Social Security benefits for those who do.

This provision radically alters the fundamental nature of the system by imposing a "means test." Even worse, this particular form of "means test" vastly overemphasizes the social adequacy features of Social Security and reduces the individual equity element which is so essential to the credibility and popularity of the system.

The benefit formula is already heavily weighted in favor of the low wage earner. The tax on benefits further weakens the "earned right" aspect—or insurance character—of the program.

A dangerous precedent is being set by transferring the proceeds of taxes on benefits from general revenues to the Social Security trust fund. Congress in the past has avoided earmarking revenues from income taxes, in order to maintain flexibility in the use of general revenues. The earmarking contained in this bill could be used as justification for earmarking revenues for a host of other programs in the future.

The bill further changes the nature of our Social Security system by its use of general revenues—$70 billion in the short term. This is an abrupt deviation from the discipline of a self-contained system, recognized even by Franklin Roosevelt as being essential in the original design of the program. It is also a fiscally irresponsible change, given the projected deficits in the federal budget for the foreseeable future.

The injection of general revenues, without any significant structural reform to restrain the growth in benefit outlays, creates serious questions regarding the ability of workers to sustain the system in the future. The testimony of actuaries present at the Committee's hearings project that OASDI and HI combined will require over 32 percent of payroll to sustain benefits in the year 2030. We cannot ignore the impact of that tax burden, combined with other federal, state and local taxes, on the working people of that era. Unfortunately, the Committee bill does ignore that burden.

By relying upon general revenues (which can only come at this point from increased federal borrowing) and new payroll taxes, the Committee has squandered a historic opportunity to bring about the structural changes which would provide greater assurance of stability in the system for the future.

That stability, in our opinion, can come about only by altering the basis structure of the program, by designing a system which relates benefits more directly to taxes paid by an individual. In return for the taxes we impose on the working people of this country, we owe it to them to provide realistic expectations of what their taxes have earned in their own retirement years.

Another long-term deficiency in the bill is its failure to address the demographic changes that are taking place, and the impact that such changes will have on Social Security when the so-called "baby boom" generation begins to retire after the year 2000. By not recommending any increase in the retirement age, the bill ignores (1) changing demographics, (2) the fact that Americans are living longer, and (3) the fact that older workers will be in greater demand in the future because of the declining worker/beneficiary ratio.

The coverage provision in the Committee bill bringing newly hired federal employees into the Social Security system is a step in the right direction. We question, however, why employees of non-profit organizations were treated more harshly in being denied the same "newly hired" provision accorded federal workers.

Among those singled out for advese treatment by the bill are the American small business men and women—those who operate the corner drug stores, repair shops, laundries, groceries and all those other little enterprises on whom our economy and personal lives heavily depend. These are the people who will pay sharply higher taxes into a system that will offer steadily lower expectations. The adverse impact on employment will be severe—at the very time when we are attempting to put Americans back to work. The very survival of some struggling businesses will be placed in doubt by this bill's speed-up of payroll tax incareases, a net increase of 27 percent in taxes paid by many of the self-employed, and its taxation of benefits themselves.

One aspect of the bill would be ludicrous if it were not so costly and economically ill-advised. Under the heading of "fixed monthly tax transfers," the bill establishes a series of borrowings from Treasury's general fund. With the general Treasury in deficit, that obviously means Treasury will have to borrow the funds to accommodate the transfers. That in turn means additional crowding of the marketplace to the detriment of interest rates and inflation.

In summary, our concern is that the bill fails to address squarely the myriad problems which remain in place in the Social Security system. The bill merely focuses on symptoms while allowing the basic problems to continue to grow unchecked. This may have been our last opportunity for reform of the system. The National Commission failed to rise to the occasion.

Congress is now poised to take the politically expedient way out by merely endorsing the Commission's recommendations with virtually no change.

Make no mistake. The undersigned are totally committed to the necessity of restoring solvency to the Social Security system upon which so many Americans depend. We are not, however, willing to abdicate our principles or responsibility for the sake of helping Congress avoid its legislative role in this issue.

It is unfortunate that our desire to assure the solvency of Social Security into the future cannot be matched by a confidence that this bill accomplishes that goal.

BILL ARCHER.

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PHIL CRANE.

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